The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta JANUARY 26th, 1939

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(EXAMINATION OF MR. JAMES WATT TAYLOR CONTINUED BY MR. FRAWLEY).

Q MR. FRAWLEY: Mr. Taylor, there is I think only one more item on Exhibit "107", which is your breakdown of administrative costs, and that is a fairly large item of corporation tax which you paid to; I presume, the Alberta Government under that name, of $23,000, which the Royalite pays?

A Yes.

Q That is a tax as I understand it roughly speaking on the capital of the company?

A It is referred to as a corporation tax.

Q Yes but I think, my recollection of it now is that it is based on the capital, either issued capital or the nominal capital of the company, a certain percentage?

A No, I do not think that is so now, Mr. Frawley. I think it is on a proportion of the Dominion Income Tax basis or some such basis as that.

Q You may be thinking of, I do not want to be disputing as to the facts, it would be much better to have them, but I think that is a pipeline tax, I think there is a separate tax imposed on this company, on its pipeline division, but that would appear as a direct charge?

A Yes, but this is over on---

Q It is something different from that tax which I personally had something to do with, a tax imposed upon the pipeline which would properly be a charge to the pipeline?

A That would be under direct costs.

Q So that is something else; I do suggest to you this is a tax based upon the capital, perhaps the issued capital of

the company?

A I do not think that is the calculation of that tax now.

THE CHAIRMAN: The capital stock you mean?

MR. FRAWLEY: Yes, the capital stock.

MR. NOLAN: My information is that that is not so now, it used to be so.

THE CHAIRMAN: It is under some act.

MR. FRAWLEY: Yes, it is under the "Corporation Tax Act".

Q MR. FRAWLEY: What I suggest now is, if it relates to and is measured upon the capital of the company, then a good deal of that should be borne by the drilling of wells department because there is a lot of capital employed there?

A That is right. If it is a calculation on the capital.

Q Yes, if it is, so we will take it that way.

A If it is a calculation related in any way to the income I would say that would be a different matter.

Q We will correct that, I will look into it myself and Mr. Nolan probably will too, but for the moment you will assume with me if it is a tax based upon the capital, then it would seem right that a goodly portion of it should be borne by the drilling of wells department.

A If the calculation is on the capital, yes.

Q That is true but your method of distributing these indirect costs does not allow of any such, of any portion of it being---

A There is no allocation in our figures.

Q That is the only point I wanted to make about that.

THE CHAIRMAN: Have we had any evidence of the set-up of this company?

MR. FRAWLEY: The capital stock, and issued and so on.

THE CHAIRMAN: Yes.

MR. FRAWLEY: You should have that, that is a matter that Mr. Nolan might do. Mr. Burns would be the ideal witness for that.

THE CHAIRMAN: It would not be much trouble, and would you mind doing it, Mr. Nolan?

MR. NOLAN: No, we can just prepare a statement.

THE CHAIRMAN: Oh yes, that is all.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Perhaps it does not arise now but this might be a convenient time to do the same thing about Imperial.

MR. FRAWLEY: Yes, I will see as to that.

Q MR. FRAWLEY: Then perhaps just to repeat for a moment, to make it quite clear, none of the $20,000, the first item on the list of administrative expenses for 1938, Exhibit "107", none of the salary of the general manager, Mr. McLeod, or the chief accountant, Mr. Burns, none of that is allocated to the drilling of wells department, your system does not permit of it being done?

A Not to the drilling of wells or any other capital.

Q So that in each year that they are drilling wells, and that is every year, and we hope continuously from now on, in every year that they are drilling wells then no portion of Mr. McLeod's salary goes to the drilling of wells department and necessarily more is borne by, well what is not borne by the drilling of wells department is borne in the pipeline department?

A I think there might be found in years gone, years back, that there was no well drilling in some years. The drilling of

wells is not, by no means, a steady feature.

Q I see.

A Year by year and it is a fluctuating element.

Q Yes.

A The expenditure for the drilling of wells and that is one of the principles under which I claim that it is not proper to distribute to capital additions.

Q So that because it fluctuates, I do submit, Mr. Taylor, I do suggest to you Mr. Taylor, that because it does fluctuate we find a year in which there is a big, quite a large drilling program?

A Yes.

Q And in that year, although I suggest to you Mr. McLeod's time for a goodly reasonable portion of it would be actually spent in the supervising of the drilling of wells, and Mr. Burns' time would be occupied in the supervising and the keeping of accounts in the drilling of wells department, in this year in which I am suggesting to you that there was a large drilling program, in that year no portion of the indirect expenses amounting on Exhibit "107" to $102,000, no portion of that is allocated against that drilling of wells department and necessarily therefore it is borne by the other department in what I suggest is an unfair proportion but you say because it fluctuates---

A Not because it fluctuates.

Q Not, not really because it fluctuates, but it does fluctuate?

A It does fluctuate.

Q And you seem to think---

A And I claim that that feature causes an artificial situation and up to this point in the profits, and I carry that to the costs because the two are mixed.

Q I cannot accept your description of it as being artificial. Mr. Morrison's percentages I think fluctuate considerably, I do not know how much, but they do fluctuate and I want to know what you think about it, in accordance with the facts, that purely is the merit of one system against the other, while Mr. Morrison's percentage might fluctuate they fluctuate in what is after all the fact of where the expense was incurred?

A The fact of where the expense is distributed on the two bases--

Q Well it is distributed in accordance with the facts, it is distributed in accordance with where the money was spent, that is what Mr. Morrison has done I suggest to you?

A I do not think one can say that it is according to where the money was spent. It assumes, Mr. Morrison's basis assumes that the money is spent in that proportion, that is to say if we have a position where our payroll on construction work, capital expenditure work, is 50 % of the total payroll so 50% of the indirect and administrative expenses goes into capital?

Q Yes, that is so.

A And it takes it out of operation into capital.

Q- Yes.

A And so the unit cost per barrel of transporting oil is arrived at and if we come to the next year and there is no capital expenditure then all the 100% of those expenses, those indirect administrative expenses, goes against the operation and I claim that that creates a distortion of your unit cost.

Q Yes.

A And your unit costs which, as I claim, do not, the total of those expenses do not fluctuate in accordance with whether they are capital additions or not, the expenses are,

if you had a case where the expenses were the same in two years, I claim that you get a distortion of your unit costs per barrel of transporting oil by capitalizing on the basis of your payroll.

Q Well Mr. Taylor---

A As against operation.

Q Yes, I do not quite understand your use of the word "distortion", it may be that the cost is more in some years than others, but is that not something which is found in many many businesses?

A Yes, that is so and my point is that we get here, I will put it this way, Mr. Frawley, supposing this capital expenditure which took place in the pipeline department in the eight monies ended September 30th, 1938 had been, instead of in the pipeline department, the building of an absorption plant and assuming that there were no capital expenditures in the pipeline department and you distribute on the basis of your payroll to that capital expenditure, it would take all your direct costs which now fit in the pipeline department, because there was considerable capital expenditures in the pipeline department, but if we moved those to the absorption plant we would get a situation as to indirect charges against the pipeline department that I say would be distorted on account of the fact that a capital expenditure was going on in some other department?

Q Well would not, it all comes back to the same thing, if there was more capital expenditures being done, there was more activity in the absorption plant department, would not the general manager's time be more spent in that department than in the pipeline department?

A But as between departments I say this, as between departments,

if we made that allocation---

Q Yes.

A And took it to the absorption plant, it would take it out of the pipepine department and you would have a figure in the pipeline department which did not represent a normal operating figure.

Q There seems to be, perhaps the difficulty between us, Mr. Taylor, is that you are anxious to have some uniformity in the account, whereas I am only anxious to ascertain what the fact is, as to where these expenditures went on, whether it is distorted, to use your word, it makes one year high and one year low, I for my part, it does not disturb me?

A For my part uniformity is a very important feature.

Q Yes, and that is why you have taken averages throughout?

A I beg your pardon?

Q That is why you have resorted so frequently to averages, you have been endeavouring to show the Commission what the average cost is?

A We have done that automatically. I mean if you prepare a statement for seven or eight years, I think the average figure is a figure of some interest.

Q Well now the average means of course the low figure balanced off with the high figure?

A That is correct.

Q Well now is it of any great value for us to know what either one of those extremes are, as to what the medium figure is, is not the fact of the high and the fact of the low of more interest to this Commission, where it is and what year is high and what year is the low, what value to them is it to know the average for their purposes?

A I know in my experience in setting up profits for instance,

the average figure is quite an important one. Supposing you are quoting figures in a circular offering securities to the public for instance.

Q Yes?

A And your earnings do fluctuate back and forth?

Q Yes?

A The investor is interested in what the average situation was over the period, he must have it year by year of course.

Q You see, Mr. Taylor, I see that point, but would not the investor, the investor might like to know the average but you would not fail to give him the high and the low?

A Year by year figures, certainly.

Q You would undoubtedly give him the other figures, and the other is just a ready reference, it is just a calucalation?

A It gives him a figure of what is, just as it says, it is the average position over those four or five years.

Q Yes, taking---

A Because it would not be right for him to look just at the high figures nor just at the low figures but by averaging them you give him an overall picture of the fluctuation from year to year.

Q This is perhaps getting a little beyond what we are doing, but let me follow this up, if you say you want to ive an investor a picture of what an industry has been doing and we find in the last five years the position of the company has been a steadily rising one but in the first five years it had been very ordinary if not going downward?

A Yes.

Q But for five years there has not been a break in the steadily rising position of the company?

A Yes.

Q Is not the high and the next, and the next, of the last three or four years, is that not what he is interested in?

A Not necessarily, Mr. Frawley. You might have a picture there, a company which goes through a cycle of maybe ten years of high figures and low figures.

Q Yes.

A There is no, it might quite well be that there is no assurance that the high figures are going to continue.

Q No, but you give him the whole picture, perhaps there is not much between us, you give him the whole picture and if he is going to spend much money he is going to look at it carefully and he is concerned, all he has to do is to add up the number of years and divide by the number of years, all he is interested in knowing is what the effect of the high is and the effect of the low?

A Yes.

Q And I say the same about this Commission, perhaps I should call your attention to the fact of what the Commission is considering, they are considering primarily what affair, what the actual cost, what the actual cost is and then what in their opinion what is a fair and equitable cost, that is one half of the task?

A Yes.

Q And then following on from that, to find out in their opinion what a fair and equitable rate should be, so could they not have completely discharged their duty in simply taking, I am not suggesting they would have done it that way, but couldn't they have completely discharged their duty by taking the year 1938 and finding out what the cost was in 1938, then they could say to the Lieutenant-governor-in-council the

cost is, the present cost, in any event, the cost is, whether or not it was before but it now is so many cents?

A Yes.

Q But they have gone back over the other years, and have not both of us gone back over the other years for comparative purposes, to let the Commission know whether the 1938 cost is something fair or whether it is a completely abnormal one, completely apart, and out of any reasonable calculation, but is not the primary task of the Commission to find out what the cost now is of putting a barrel of oil through that pipeline?

A Yes, that is the task, and I think in that, in taking cognizance of that some thought would be given to the probability of the continuation.

Q Well that is something else now?

A Of the experience of 1938.

Q Yes, that is whether the 1939 and 1940 are going to go along?

A Yes.

Q Well I have some views about that, perhaps it is not important to discuss them with you at the moment, I do not mind doing it, but perhaps this is not the occasion for it, to enter into a discussion about it, that there is another place for that but if the Commission is, as you say then, primarily concerned with ascertaining the cost, first the actual cost and then what in their opinion is a fair and equitable cost, are we not then concerned with fixing, taking Mr. McLeod's salary for 1938 and seeing if we can put some portion of it on the other departments in whose business he was from day to day engaged. Now that is a thing which I do not want to labour unduly but I want to know whether, as an accountant, I just suggest to you that an

accountant should be able to figure out some way, as indeed Mr. Morrison has endeavoured to do, some way in which some portion of Mr. McLeod's salary should be charged against the drilling of wells, if in fact, as I dare say there is no doubt, he was engaged in that department's business. Now Mr. Morrison's degree, percentage, may be wrong, I am not discussing that for the moment, Mr. Morrison's percentage may be wrong but you have allocated none, none, of those expenses to that?

A On the grounds of the discussions which we have had before of these matters.

Q Yes, all right, so we will leave it there, you say that distortion bothers you and you do not want to make any allocation, now then there is one aspect there, the Royalite Oil Company gas some subsidiaries, the Dalhousie Oil Company and the Foothills Company?

A Yes.

Q Which are carried as separate legal entities, but controlled by Royalite, that is so?

A That is so.

Q And the Dalhousie Company is engaged in drilling wells?

A I cannot say as to that.

Q We will assume that that is the fact, I do not know whether Dalhousie drills wells or not, we will pass from that, because I do not want you to assume something you do not know, or your people here cannot tell you that is so, but the Royalite Oil Company does drill, you know this to be a fact, does drill for other companies?

A Yes, that is so.

Q When they send a bill to the company for whom they have drilled a well, do they not add something for administrative costs?

A I cannot say as to that.

Q Well you do not know about that?

A No I do not know.

Q So it would not help if I should suggest to you that they do, you cannot accept my suggestion?

A No, without going into the matter. I have not made any inquiry in that regard.

Q Now, Mr. Taylor, we may have to come back to that; the Chairman asked you yesterday and I think it is a fact that you said something of that sort was being prepared, I am referring to the rate in cents per barrel which emerged from your allowing of the 20% return?

A Yes.

Q And you intended to file such a statement?

A Yes, I have it ready now.

Q You have it ready now?

A Yes.

Q Well I suppose it may as well be filed now.

A I do not believe I have that with me but it is prepared.

Q You will perhaps bring it when you come after lunch?

A Yes I will.

Q MAJOR LIPSETT: Mr. Taylor, in connection with that line of cross-examination that Mr. Frawley was submitting to you, would you look at page 1, the bottom page and the beginning of page 2 of your own report, Exhibit "100"?

A Yes.

Q I just want to quote you, Mr. Frawley put the bottom of page 1 to you but I want to refer you to the beginning of page 2 as well:

"Royalite Oil Company Limited is primarily a producing

company and its revenues have principally been derived from the production and sale of oil and natural gas".

A Yes.

Q Then if you go on over the page:

"Incidental to its production operations, pipelines were laid for the gathering and transporting of oil from the Turner Valley field to the Calgary Refinery".

A Yes.

Q Is that consistent with the view which you are giving now, that the pipeline should bear all the administrative costs and the Royalite Oil Company is more or less incidental to the pipeline?

A I had made no suggestion that the pipeline should bear all the administrative costs, sir.

Q Or capital, so far as capital is concerned?

A That capital should not bear any.

Q But the primary object of this Royalite Oil Company was to acquire land in Turner Valley and drill wells on it, was it not, was that not the primary object?

A Yes, with a view to producing oil.

Q Producing oil?

A Yes.

Q And then when they have done all that and got the wells and produced the oil, then incidental to getting it to the market they built the pipeline?

A Yes.

Q Is not the drilling of wells really the primary object when they expended the capital on that, the primary object of the Royalite Oil Company?

A That is so, and I would say this that if you have a business, take Mr. Hill's calculations for instance, where we have a completely new venture starting off, that was his, he had the reproduction values and he was visualizing himself just going into a new venture.

Q That is the pipeline venture?

A Yes.

Q Yes?

A Well he capitalized, he added a figure for administrative costs during the time that the original investment would be constructed.

Q Yes, but what I was asking your opinion on, Mr. Taylor, was in reference to the Royalite Oil Company as it stands, was not the original object, whose salary were you referring to, Mr. Frawley?

MR. FRAWLEY: Mr. McLeod's salary.

Q MAJOR LIPSETT: Mr. McLeod's salary, the original object of the Royalite Oil Company and the original object of having Mr. McLeod, was to acquire land and drill wells, in Turner Valley?

A That would be at the beginning of the company, yes.

Q I can see, Mr. Taylor, that there might be some change in the last year and a half when other people started sending oil through this pipeline?

A Yes.

Q But the earlier period, it really looked as if the whole object was to drill wells and spend capital on that and get production?

A Yes, and I would agree at the beginning of any business and the setting up of any business new, that the overhead costs should be capitalized but that as soon as the new business

comes into production that there should be no further capitalization of capital expenses, that the operations should absorb all of the overhead, from the point where that new venture comes into production.

(Go to page 2921)

Q MR. COMMISSIONER LIPSETT: But as far as the drilling of wells is concerned, that end of the business, there is no such thing as the coming into production in the sense of an ordinary business. The business is to continue to drill wells, is it not, so as to keep production going. There must always be capital outlay in a well drilling company?

A Yes, there is.

Q I can see if you were referring exclusively to the last year or two there might be something different, that the pipe line might become almost the primary business?

A Yes. This reference incidentally to its production operations refers back to the time when the pipe line was first laid. But I will say this, that the importance of the pipe line has assumed a much larger proportion of the complete picture than was the case in the years before.

Q MR. FRAWLEY: Yes, of course, that was inevitable, because the oil was there and many many producing wells, and only one real economical way of transporting it out of the field, and the Pipe Line Department could not help but benefit tremendously from that development. That is so is it not?

A I think the figures show that quite plainly.

Q One more question. I find in 1937, under the total of indirect expense, for the whole Royalite Company it is shown by your Exhibit "100" as $169,844.07. I do not know just where in the exhibit it is, but it is there?

A Yes.

Q And in 1938. That is C-7, Mr. Chairman.

A Yes.

Q And 1938, that same figure, that is the total of indirect

expense for the Royalite was $190,439.92. That is for the nine months?

A Yes.

Q And in 1936 it was only $122,901.21. In 1935 it was only $60,299.61. Now is there not just one conclusion from that, that the utilities expense went up, went away up, with the drilling activity of your Company and other companies - but this only affects your Company - your Company's drilling activity also increased tremendously?

A I would say that is, as to these figures. But there are elements working into these figures which are not a reflection of what was actually happening, because I think in this particular year 1935 - I know in looking it over in some years - there were items came in there, large items like profit on the sale of materials which would fluctuate that figure unduly. I do not think you can take the figures as they stand there, and relate them year by year. I think if we look at Mr. Morrison's exhibit, that we may be able to find out just what the situation was. But there are figures working into that indirect figure which make it so that it is not a proper reflection of the movement of the actual expenses.

Q That may be. But I do call your attention to the fact it is tripled from 1935 to 1938?

A I would like to have a look at Mr. Morrison's 1935 statement. We are talking about comparing figures which I do not think are comparable on account of that feature I have just mentioned.

Q You see my further suggestion would be it would seem a

a little strange if no portion of this utility expense should be charged to the Drilling of Wells Department. That seems to be strange when there was so much activity in the Valley in the drilling of wells, and you resolutely refuse under your system of allocation - I say refuse, and your good judgment tells you to do so - to put against the drilling of wells department any portion of these indirect expenses which went up so fast. That is subject to the explanation you want to make.

A I want to stress the point of the fact we cannot keep that $60,000.00 out. I think the best way would be to look at Mr. Morrison's statement and see what the position is. If we look at 1935.

THE CHAIRMAN: What exhibit number is that Morrison statement?

MR. FRAWLEY: Exhibit "88".

THE CHAIRMAN: What page are you referring to?

A Page 13.

Q MR. Frawley: There are some on page 12 aren't there?

A Yes. I refer particularly to the amount on page 13 under the proportion of Administrative and General Expense. There is a credit of $33,321.95 under the name of Sales of Material and Supplies, Inventory Adjustments, , Bad Debts, Sundry Credits, less Miscellaneous Operating Charges $33,321.95. If we look at the year 1926 on Page 15, the comparable figure is $1027.52. That is the element that to my mind interferes with the comparison of the amount.

Q Then we will forget about 1935, and go to 1936.
We find it is $122,000.00. That is the total
of your indirect expenses.

A 1936?

Q As far as I am concerned I think I can make the same
point by using 1936, 1937 and 1938. It is for that
reason that we will not pursue 1935.

THE CHAIRMAN: You will not entirely
forget it, I hope?

MR. FRAWLEY: Did I say forget it?
I must not be so colloquial. You see 1936 it was
roughly $123,000.00?

A Yes.

Q And 1937 $170,000.00?

A Yes.

Q And 1938 is $190,000.00. Yes, plus one-third.
$250,000.00. Take $250,000.00 instead of $190,000.00.
Now just look as these figures and I say to you, or
I suggest to you that the reason that these indirect
expenses are going up so fast, in such large jumps,
is that there is increased activity, drilling
activity, because that is at the base of all activity
in Turner Valley. Drilling activity by your Company
in Turner Valley.

A No, I think a good deal of that increase might be
represented by......

Q Yes, might be represented by what?

A It must be represented by a general increase in the
activity.

Q Well that is what I mean. I do not say it is all because
of the drilling. I say we must have very serious regard

to the increased drilling activity when we look at the increase in these indirect expenses.

A I think the increase in the activity was very largely represented in the Pipe Line Division, where we set up from a production of about, a basis of 2,000,000 a year to 6,000,000 a year, between 1937 and 1938.

Q That is quite true; and also the production from the Royalite wells, from all the Royalite wells jumped up?

A Not proportionately.

Q No, but it jumped up some. Am I not right in saying under your system of allocation this has got to be all accounted for by the increased activity in the Pipe Line Department. You are not giving any of it to the Drilling of Wells Department. That is the only point I am making. I say there is increased activity in the Drilling of Wells Department and your system does not enable you, quite prevents you, from reflecting that additional activity, additional expense incurred, additional work being done in that drilling of wells department. Your system of allocation does not permit you of putting any portion of this administration and utility and service units expense into that?

A Yes, that is true.

Q Now going back to what Major Lipsett was discussing with you a moment ago as to what was the big department of this Company. I am looking at Exhibit "87" "C", the Jersey Statements, just to get some idea of what the big departments are?

A May I have a copy of that?

Q Yes, you should have Exhibit "87" "C". Would you look at "87C" Mr. Taylor, and looking at the figure in red on the left hand side, which is the net revenue..... well take for comparison purposes, take the gross revenue. Well take the net revenue which is lower down; $3,129,951.56?

A On the first page?

Q Of "87C", yes.

A $3,129,951.56.

Q Yes, that is right. If you take that figure and look along the page ....

THE CHAIRMAN: What column is that figure in?

MR. FRAWLEY: At the very bottom in the third last column.

Q That is the amount which is distributed as we go along the page, at least as far as percentages are concerned?

A Yes.

Q I think I can follow it more clearly if you take the gross figure, just on top there, $4,047,908.95?

A Yes.

Q I think it is the same thing for my purpose. If it is not you call my attention to it. That figure of $4,047,908.95 is broken up as we go across the page is it not?

A Yes.

Q And under crude oil we find $841,870.66?

A Yes.

Q And under crude naphtha $157,647.46?

A Yes.

Q And under absorption gasoline and so on. I suggest to you that the biggest revenue producing department was absorption gasoline department. It made $1,037,000.00 odd out of the $4,000,000.00 odd. The next is the crude oil department which made $841,000.00 out of the four million. The next is the Gas department which made $606.000.00 and then our pipe Line Department is fourth, $486,324.00?

A Yes.

Q That at least is what it looks like under the Jersey Statement set up for 1937. So that at least it is rather difficult to say that this Pipe Line Department is just as important as far as the propriety or impropriety of its bearing this or that portion of indirect expense, it is kind of difficult to put it in first place when it is only in fourth place here.

A I think if you had this same statement for 1938 you would find a quite different position.

Q Well maybe so.

A It must be so, because in 1937 we were dealing with something like 2,000,000 barrels, and in 1938 we were on the basis of about 6,000,000 barrels.

Q That is on the revenue basis of course, which nobody seems to think is the right basis for this Commission?

A I would not say it was, not with that fluctuation. I venture to say if you had this similar statement prepared for 1938 the position would be very widely different, as to overhead rates for instance, on account of the proportionately larger increase in the pipe line revenue.

Q As far as my submissions are concerned to this

Commission, and my suggestions to you, it does not matter whether the Drilling Department is in sixteenth place, my submission is that some method should be found out of its bearing some proportion, be it large or small, of the overhead of this Company?

A That is quite clear.

Q MR. COMMISSIONER LIPSETT: Excuse me, what porportion of this barrellage in 1938, Mr. Taylor, 4,562,702 barrels?

A Yes sir.

Q Was Royalite Oil?

A About 22% I believe. That is based on the statement.....

Q MR. FRAWLEY: That is Royalite wells you mean?

A Yes, from Royalite wells. I think it works out about 22%. I am basing that on a certain statement which is not in evidence yet, but which is being checked by Mr. Morrison, as to the proportion of the pipeline adjustment that was oil that Royalite produced, and working out from that statement it gives 22% in 1938 as compared with about 40% in 1937.

Q 40% in 1937?

A I would like to be quite sure I am making a proper deduction from that.

Q MR. FRAWLEY: Yes. Mr. Morrison suggests you look at this. It may be just what you mean to say, Mr. Taylor, or it may not.

Q MR. COMMISSIONER LIPSETT: Do you know what the percentage was in 1936?

A No sir, I have not worked that out. In looking at this statement, and we take the nine months ending

September 30th, 1938, and going to Exhibit C-8 of the Court Exhibit "100", the pipe line adjustment dealt with 64,029 barrels, and this statement as to the proportion of that that was Royalite is 14,310 barrels. So that oil from Royalite wells was 22%,, taking the 64,029 as against the 14,310. It is 22%.

Q MR. COMMISSIONER LIPSETT: There must have been some activity, substantial activity in drilling between 1936 and 1938 by the Royalite, because if the entire barrellage that went through in 1936 was 827,000 barrels, it would be less than the 22% for the nine months in 1938.

MR. FRAWLEY: There is other oil that they buy. In fact they buy - well there are only two people buying oil in the whole Valley, the British American and the Royalite.

MR. COMMISSIONER LIPSETT: But just on the question of the activity in producing. Their 22% of the 1938 oil would be......

MR. FRAWLEY: It may be what you are deducing is quite right. There is a difference between the oil that the Royalite produced and the oil that they buy, which immediately becomes the property of the Imperial.

Q MR. COMMISSIONER LIPSETT: This 22% is not oil that they produced necessarily?

A That is oil that they produced.

Q THE CHAIRMAN: Out of their own wells?

MR. FRAWLEY: Out of their own wells.

A Yes, that is my understanding.

Q MR. COMMISSIONER LIPSETT: What I was pointing out

is that the 22% of 4,562,000 would be approximately.....

MR. FRAWLEY: 900,000?

A About 1,000,000.

Q MR. COMMISSIONER LIPSETT: What I am pointing out is this, that in 1936 the whole oil that went through was only 800,000 barrels?

A Yes.

Q And consequently the new drilling of the Royalite must at least have produced 300,000 barrels extra in these nine months.

A I do not know. That assumes that this figure in 1936 was all out of Royalite wells.

Q If it does that is in your favour. If it was less than that there must have been considerably more drilling going on by the Royalite, and more capital expenditure on the drilling side?

A Yes, that would be so. I think as a matter of fact that is so, that the drilling costs in 1936 and 1937 were a growing factor.

Q MR. FRAWLEY: You are bearing in mind, of course, Sirs, that the crude oil was not discovered until some time in 1936, and that it started to move through the pipe line in the Fall of 1936.

MR. COMMISSIONER LIPSETT: I was just dealing with what you were putting to him,about the administration, that there must have been very considerable drilling activity by the Royalite drilling organization from these figures between 1936 and 1938,

MR. FRAWLEY: We know there is activity and it is going on all the time and presumably it will go on still, and still there is no distribution.

THE CHAIRMAN: The witness states that. He says for reasons which he thinks quite sufficient he dealt with it that way.

Q MR. FRAWLEY: Now, Mr. Taylor, are you familiar at all with the book that Mr. Morrison dealt with the other day, and filed as Exhibit "103", Willard J. Graham on Public Utility Valuations, Mr. Graham being Assistant Professor of Accounting at the University of Chicago?

A No sir, I am not acquainted with that.

Q I want to read you something that he says. Your system of arriving at the cost is the same as Mr. Morrison's I understand, that is endeavouring to ascertain the original. You and Mr. Morrison are at one about that?

A The original.....

Q The original cost of the plant. Mr. Hill comes in and makes a present day valuation. As I understand you, you and Mr. Morrison have done it the other way and you have endeavoured to find the cost from the records in the books of the actual expenditures of the Company?

A Yes, that is right, and if Mr. Morrison distributes to capital account then his assets grow by the application of that distribution. That would be my understanding.

Q I want to show you something in here. I want to read something to you and ask you whether you accept it. Do I understand before we begin - I may have a misunderstanding, but I thought you and Mr. Morrison adopted, generally speaking, the same principle. Mr. Hill did one sort of a job, he came and looked at the plant now. You and Mr. Morrison went in and

added up the capital investment?

A Yes.

Q So that you both went about doing the same job, is that so?

A That is so, and we took the capital assets as they stood on the books.

Q Yes?

A To which there had been no distribution of overhead, utilities or administrative overhead.

Q I am talking about direct assets in any event?

A The direct assets of the Pipe Line Company. The Company on its own books did not capitalize any overhead.

Q Mr. Morrison tells me he did not either so we can aliminate that?

A He did not either, although he distributed part of the overhead to capital account. He took capital into consideration.

(Go to Page 2933).

Q Well, Mr. Taylor, I think that, perhaps, we have no difficulty at all. Mr. Morrison tells me that he did not distribute any part of the overhead which I, in my limited way, would like to typify by saying Mr. McLeod's salary, he didn't put any part of Mr. McLeod's salary into this capital structure?

A No, nor any part of the distribution which was made of the capital payrolls.

Q No, well, you did not, did you?

A No, we didn't because our basis, there is no disposition to capital expenditures.

Q Then I get back to what I said a moment ago, that you and Mr. Morrison set out to do the same thing, to add up all of the capital expenditures of this company in the pipeline department?

A Yes.

THE CHAIRMAN: But they get different results, let the witness tell us what is the point of departure.

A The point of departure is this, it seems to me that these capital expenditures as standing on the books without any distribution of indirect costs, administrative or utility, and if you have a basis of distributing as part of that overhead to these capital expenditures as they are made from year to year, I say the proper thing to do is to add whatever you allocate to the capital expenditures to the assets, that is, carry through the distribution and take the proportion that you distribute to the capital feature, take it through and relieve the operation; that is to say, to carry through to its column the allocation which you make. If we take; take, for instance, the pipeline department itself in 193[illegible] Now, the allocation made by Mr. Morrison, he takes 100% of the pipeline payroll, 60% of that, as a matter of fact, was capital expenditure, 60% of the payroll

was expenses of capital expenditures and 40% was spent on operating, and my submission is that the portion of those indirect expenses which go against operating is the 40% that relates to the operating payroll and that the other 60% relates to the capital payroll and should not be charged against the operation.

Q THE CHAIRMAN: Yes. And Mr. Morrison?

A And the $42,000.00 figure which appears on statement 21, I think it is, the $42,000.00 figure that is charged against operations in the nine months ended September 1938 include both the capital feature and the operating feature. The 100% of the payroll of the pipeline department is in that $42,000.00 and my submission is that there should only be the 40% that applies to the operations.

Q Now, any other point of difference that you care to mention, with respect to which you think Mr. Morrison has fallen into error in getting the different results?

A That is the point, considering Mr. Morrison's basis of distributing the capital proportionate to the payroll and applying that application all the way through, I would say that in respect to the nine months ended September, 1938, that of that $42,000.00 that now stands, that only 40% or about $17,000.00 should be standing against the operations as a charge, as a cost working into the cost per barrel.

Q MR. FRAWLEY: Now, insofar as the assets in the pipeline department, the direct assets, are concerned, I see that with the exception that has been spoken of more than once, that is the 6-inch Loop?

A Yes.

Q You and Mr. Morrison set about.....

THE CHAIRMAN: And $58,000.00 in respect of smaller

items?

A Yes.

Q MR. FRAWLEY: Yes, some $235,000.00, roughly?

A No, no.

MR. NOLAN: $100,000.00.

Q MR. FRAWLEY: $178,000.00 is the 6-inch Loop?

A $178,885.02.

MR. NOLAN: But part of that comes back.

Q MR. FRAWLEY: Yes, less recovery, it is $235,134.68 less recovery, was the figure worked out to show what the actual difference was?

A Yes.

Q Let us put it on the record now.

THE CHAIRMAN: We were going to get some information as to what is contained in the $56,000.00?

A Oh, yes, Mr. Maw is going to speak to that.

Q MR. FRAWLEY: Without exception then, Mr. Taylor, as I have understood, you arrived at the, you both went about the estimation of the direct assets, of the total of the direct assets in the same way?

A Yes, that is correct, and these elements which you have mentioned are the only differences.

Q Are the only differences?

A Yes.

Q Now, that is what I want to discuss with you, and these rather involve the matter which you have been discussing a moment ago, Mr. Morrison will have something to say about that later, because at the moment I do not appreciate it.....

THE CHAIRMAN: Mr. Frawley, I wonder if you would be good enough before you start that, Mr. Taylor has told us why he does not think that Mr. Morrison, at least as to his

reasons for saying that that should be taken into account by this Commission.

MR. FRAWLEY: Oh, yes.

THE CHAIRMAN: He has given us those reasons. I would like to have him critically examine Mr. Morrison's reasons for excluding it and get his views about that.

MR. FRAWLEY: Yes, I wonder how would be the best way to do that?

THE CHAIRMAN: You are more familiar with Mr. Morrison's reasons for excluding it than I am.

WITNESS: Which is that, this difference in the way we are talking about......

Q MR. FRAWLEY: The 6-inch Loop and these other miscellaneous items.

A The 6-inch Loop and the other items?

Q Yes, it is suggested you might say what you think about Mr. Morrison's reasons, as he has given them to us, for eliminating them.

A Not putting them in?

Q Mr. Morrison has eliminated them and left them out, why do you say that is wrong?

A I say it is wrong from the point of view of arriving at what the actual cash investment was in this business.

Q Yes?

A In 1929, using presumably the best judgment of the Royalite Oil officials, $175,000.00 was spent in constructing, or laying rather, $178,885.02 was spent in the laying of a new 6-inch Loop to take care of the production which was expected, but it did not materialize. As I see it, the pipeline department of the Royalite has got to be right up with production, in fact ahead of production, and having spent this $175,000.00 in their best judgment that it was

required to take care of the oil that seemed to be coming, that they made this investment, put this cash money in, - there is no doubt about the money having gone in, and that that should be considered regardless of the fact that it has been written off in the books, and I think it is only right to have been written off in the books because your assets would not show the proper position if you did not write it off, but for a purpose such as arriving at the cash investment that was put into this business......

Q THE CHAIRMAN: And the proper return on the money you put up?

A And the return on the money you put up, I consider that quite proper as a part of the cash money which was invested in this pipeline department.

THE CHAIRMAN: Now, what I was rather going to get at.....

MR. FRAWLEY: Was to discuss Mr. Morrison's reasons?

THE CHAIRMAN: Yes, I cannot just put my finger on it, and I have not a full note of it, of Mr. Morrison's evidence on that point. You might state it, he said "used and useful", did he give any reason for dealing with these assets in that way?

MR. FRAWLEY: I do not think he elaborated on it quite as much as Mr. Taylor did, but I would like to find the record and read it to the witness. I can say at the moment that Mr. Morrison excluded it because he did not find it now to be "used and useful". I do not know as I can do any more than that, that is his reason, what have you to say about that?

A The only thing I remember are those two words "used and useful".

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THE CHAIRMAN: That is all I could remember also but I wondered if there was any other reason for excluding them.

A That is all I can think of.

Q From an accounting standpoint, then you say he is not correct in excluding all these things in which money was invested and which are not now "used and useful"?

A From the point of view of showing the proper assets on the books.

Q And a proper return to be allowed the company on its total investments?

A My submission is, Mr. Chairman, that our total investment is not reflected in the books as they stand now in that we made this investment of $175,000.00 which, in my opinion, should be reinstated in order to get at the cash investment made by the company in the pipeline department.

Q Yes, and you say it should be taken into account in the rate of return on money invested if properly set up, it would take into account that investment?

A That is my opinion.

Q After allowing for amortization on this sum as well as any other sum put into any other capital asset?

A That is so.

Q Yes?

A And what happens in this case, that a complete amortization is taken from 1929 on the full amount of $175,000.00, from 1929 to 1932. In 1932, when the Loop was taken up, credit was given for $76,000.00 odd.

Q Then you say it is fully amortized?

A I was just going to say that for three years we included amortization on the full amount of $175,000.00.

Q Yes?

A And then in 1932, when the Loop was taken up we give credit for the cash money that was recovered, some seventy-six thousand dollars.

Q Yes, as salvage?

A Yes, well.....

Q Like unto salvage anyway?

A Well, it is better than salvage because that pipe was taken up and put in, I think, for, used as a gas line, so that our investment account at 1932 gives credit for $76,000.00. Then we amortized the remainder, some one hundred thousand dollars, to the end of our period.

Q Yes, I understand that, and all I want to get at, and I am afraid I am taking too much time about it, what you say, is "Do this , from the standpoint of making a rate"; Mr. Morrison says "Don't do it, it is not used or useful". Now, what I want to know, can either of you speak as to what is the accounting practice, regardless of your personal views in connection with rate-making, as to an asset which has ceased to be used and useful, if you know all right, and if you do not, all right.

A I have no experience, I really just considered it from the point of view of arriving at the proper set-up in the pipeline department.

Q MR. FRAWLEY: I have some things to ask you about that, but let me begin by reading you a short paragraph from what Mr. Graham says, page 5, this is what Mr. Graham says, Mr. Taylor, about it, at page 5, he has been discussing original versus reproduction cost , those are the two methods?

A Yes.

Q And that is how I want to distinguish between those two methods, now, he says under the sub-title of "Definition of Original Cost", of Exhibit "103":

"Literally, original cost is the total amount, in dollars, that has been expended by the utility at one time or another in the construction or acquisition of the properties which are at the time of the Enquiry included in the rate base as being 'used and useful'

and that expression is quoted,

'in the operation of the business."

And then there is a note there, and I will read you that because there is in, "8" of the foot-note is,

"Discussion of the amount of a crude depreciation to be deducted from this total original cost, or from reproduction cost, for rate base purposes, is deferred to later chapters."

Then he goes on:

"This amount is readily determinable from the books of account, if they have been properly kept since the founding of the business. In the absence of proper records it is often necessary to substitute an estimate of what the cost of the property should have been at the date of their acquisition. Likewise, where funds have been expended on grossly ill-conceived projects, or where securities of doubtful value have been issued for properties, the doctrine of 'prudent investment'

and that expression is quoted,

'has been injected to refine the concept of original cost so that it describes an amount which might 'reasonably' by a 'competent and prudent person' have been expended on these properties at the time

of their acquisition. So universal has been the acceptance of this doctrine of prudent investment that it is generally assumed to be an integral part of the original cost basis of rate-base determination."

I am reading the whole paragraph to you, to call your attention to his earlier statement, when he says that when the amount is readily ascertainable from the books, then it is the total amount in dollars which has been expended by the utility at one time or another in the construction or acquisition of the properties which are at the time of the Enquiry included in the rate-base as being "used and useful" in the operation of the business. Do you agree with what Mr. Graham says there?

A As to being the practice?

Q As to a proper definition of "Original cost", do you agree with that?

A That is on the basis of what is left and being used and useful ?

A Yes, that is virtually what he says.

THE CHAIRMAN: Now, is that putting it fairly to the witness, Mr. Frawley, as I appreciate that article as read in toto so far as you went it must be taken with this question of what a prudent investor would do, prudent, now, a man might be very prudent and do something which did not lead to a useful result. If, in effect, if, as I appreciate the reading of that report, or the contents of it from your reading, if a person made an investment which was not used nor useful, yet in the making of it his conduct was that of a reasonable man and a prudent man, it would be taken into cost , so my query, if your question to the

witness is a fair one.

MR. FRAWLEY: Frankly, I thought that that portion of the paragraph only related to this question, if you have to arrive, if you cannot ascertain readily from the books what the original cost was, but your Lordship's reading of it, your understanding of it may be quite right. "In the absence of proper records" he says, this amount, that is the amount which has been expended and that which now, at the time of the Enquiry, is used and useful, and if those have not been kept properly, "In the absence of proper records it is often necessary to substitute an estimate of what the cost of the properties should have been at the date of their acquisition. Likewise, where funds have been expended on grossly ill-conceived projects or where securities of doubtful value have been issued for properties, the doctrine of prudent investment has been injected to refine the concept of origial cost so that it describes an amount which might reasonably by a competent and prudent person have been expended".

Now, what your Lordship says is that this is a general observation by him, quite so. Now, "where funds have been expended on grossly ill-conceived projects or where securities of doubtful value have been issued for properties, the doctrine of prudent investment has been injected to refine the concept of original cost so that it describes an amount which might reasonably by a competent and prudent person have been expended on these properties at the time of their acquisition."

THE CHAIRMAN: Yes; now, here there is no question of not being in the books.

MR. FRAWLEY: No, it is in the books.

THE CHAIRMAN: No question of its not being used and useful to-day?

MR. FRAWLEY: That is right.

THE CHAIRMAN: But have you not got to apply that?

MR. FRAWLEY: Yes, as to whether a reasonably competent and prudent person.

THE CHAIRMAN: Are you not putting it in a class of an absurd investment, because it is not used and useful?

MR. FRAWLEY: Yes, there is a distinction and I want to follow up and try and get from the witness the two classifications, because I am not trying to press one or the other at the moment, I want to find out where common sense takes it.

THE CHAIRMAN: There is no suggestion of you doing anything else, Mr. Frawley.

MR. FRAWLEY: Quite so.

Q MR. FRAWLEY: This might help to understand it; supposing, at one time or another, Mr. Coultis had bought a pump, had put a pump down on that system where he spent $100,000.00, and we assume he did it as a result of his own good judgment , then he, after about six months or so, he discovered he could buy a pump that could do exactly the same work for $50,000.00, and he takes the $100,000.00 out, perhaps he found it would cost too much per day or something, and he puts in the $50,000.00 pump, and he is not able to do very much with his expensive pump, he has to sell it at a loss or something; now, going through the books you would find that $100,000.00 expenditure; now, does that illustrate, it may not even be a sensible one, but does that assist you in showing what you would do with the

$100,000.00 which you had put in in that pump and then that pump was gone?

A It was not used and useful now.

Q THE CHAIRMAN: Yes?

A I would say on that point, you mentioned a pump at $100,000.00 and you used it for two or three months and you can replace it by another pump for $50,000.00, I would say that that was a most imprudent investment and it should not be brought back.

Q THE CHAIRMAN: If, mark you, have you not to inject another factor, if, under all the circumstances, a reasonably prudent man would have known or should have known that he could get it for $50,000.00?

A That is the way I would look at it, sir.

Q THE CHAIRMAN: You had better interject that other factor.

Q MR. FRAWLEY: I was assuming it was a prudent investment, that it was good sense at the moment, but, perhaps, a pump came on the market later that could be bought at half the price.

THE CHAIRMAN: All right, put that.

MR. FRAWLEY: Supposing a pump came on the market at $50,000.00, that would do the work of the $100,000.00 one and the company said "Take out the $100,000.00 one and take your loss"?

A It seems to me.......

Q THE CHAIRMAN: Something that he couldn't have known of when he bought the first expensive pump?

A Well, following up that, if we have a pump that costs us $100,000.00, and your period was a few months, and in a few months a pump that would do the same work could be bought

for $50,000.00.

Q THE CHAIRMAN: Newly discovered?

A Newly discovered pump, I would say that the $100,000.00 pump was of very little value, would not even have a credit value, because nobody, if it has been found to be useless in our business......

Q Yes?

A Who is going to pick it up and pay something for it?

Q What would you do with the $100,000.00 which was invested, would that go into your rate-base?

THE CHAIRMAN: We have to deal with that here, Mr. Taylor, should we take it into account in giving you a return on your money?

A I am afraid I would have to be somewhat more conversant with the circumstances under which these, and it seems to me, that it would be a most unusual circumstance, that within a few months there should be a change from $100,000.00 to $50,000.00 in a pump, a pump to do the same work, and I would like, I know the circumstances in this case and I have weighed the circumstances in this case, and the illustration of that pump, I do not think is in the same class as this particular investment which I am talking of here.

Q MR. FRAWLEY: Perhaps $100,000.00 and $50,000.00 is a bit high, and too big a spread, supposing we get down to then $1,000.00, it is the same thing so far as this Commission is concerned, supposing the company decided they would take out a more expensive item and put in a less expensive one, and the most expensive one had to be scrapped, would you put in that, less salvage value, of course, would you put in that original investment less salvage value, never mind about the other?

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A I would want to use my judgment of the particular case, as I did in this case, and I would not give any offhand opinion as to how I would treat some other situation which might be quite different. I know the situation here and I apply my judgment to it.

Q Well, we do not know, Mr. Taylor, you say you know but I will have to do a lot of exploring, you have asked us to assume that this 6-inch Loop was completed because the company saw the oil, it may have been something which almost everybody but the Royalite Oil Company would have considered was a very imprudent investment......

A I am quite sure Mr. Coultis can talk on that point,

Q Yes, I suppose, and that is why I was assuming that the buying of this more expensive pump, I was putting it in the same class as this 6-inch Loop, that it was done bona fide, and as a result of good judgment, which you are using about the $178,000.00?

A Yes, I know this particular feature and I have dealt with it.

Q Yes, and I was only anxious to have you assist the Commission about this pump, I mean if you can; now, here is another......

(Page 2947 follows.)

Q THE CHAIRMAN: Your illustration seems quite apt to me, and I do not see why the witness cannot answer.

MR. NOLAN: It does not seem apt to me. It seems to me to be an apt illustration to put to him, it was on a line, intending to do work, but no oil came through the line and the pump was not used. Then let the witness say what he would do with such a pump. To take that pump out and bring in a pump which is put on the market at a less price is not the same circumstance, because this pipe line became useless.

THE CHAIRMAN: This pipe line was used elsewhere?

MR. FRAWLEY: It was just taken out and salvaged. You got some money from it which I want to ask about incidentally.

THE CHAIRMAN: Put Mr. Nolan's illustration to the witness, If he thinks it more apt tp put that one to him. Put it to him in your own way. We would like the witness to give an opinion.

Q MR. NOLAN: The Commission wants you, if you will please, to give them an example, if you like, of what you would do with some other, what shall I say, piece of machinery or part of equipment down there. Let us take for example a pump is put in in the year 1929 to pump oil, and there is no oil to pump. It is left there for three years, and taken up in 1932. It has a certain value at the end of that time. What do you do with the original cost of that pump?

J. W. Taylor.

A If that pump was put in under those circumstances which I think would properly relate it to the 6 inch loop I would say I would reinstate that pump.

Q MR. FRAWLEY: Now Mr. Nolan's example does not advance us at all, because presumably that pump is just a section of this 6 inch loop. It does not go to work. That is not my point at all.

MR. NOLAN: That is what this pump did not do.

Q MR. FRAWLEY: But I want to get this witness' views on something just a little different, but presumably in my judgment on the same kind of thing. You do not want to take a hypothetical case. You say you know about this case, and you do not want to accept my hypothetical case?

A I want to be quite sure that the conditions were relative in the two cases.

Q THE CHAIRMAN: You need not worry about the conditions, they are referred to you as part of this suppositititious case.

Q MR. FRAWLEY: Suppose there was built a warehouse, quite separate and apart, a warehouse was built by this company at a cost of $50,000.00.

THE CHAIRMAN: Wasn't it part of your illustration about your pump that it was economically sound, with everything in operation, to have a cheaper pump?

MR. FRAWLEY: Oh yes. It was good business to get that cheaper pump.

THE CHAIRMAN: I could see it was not an apt illustration if you having paid too much you should

still leave it there and use it. But I understood you throw that other pump in.

MR. FRAWLEY: Yes, that is what I intended.

THE CHAIRMAN: However, you are at a warehouse now.

MR. FRAWLEY: Yes, we are at a warehouse now.

Q Suppose we had a warehouse down there, which was doing its job, and it was destroyed. The Company had put money in, $50,000.00. The warehouse was destroyed and they did not see fit to replace it by a similar warehouse so that it would be now used and useful. They just decided they could get along without it, and just crimped their operations slightly. Therefore, today it was used and useful. How would that be treated?

A It was destroyed how?

Q Well by fire, and no insurance to add to it. Well that would be just salvage anyway. It would not make much difference.

A No, I would not reinstate that item.

Q Now we have made some progress anyway. So that you give that importance to the used and useful argument of Mr. Morrison's. Let me put this to you. This is a rate case to all intents and purposes. The Royalite Oil Company is now theoretically for the first time offering something to the oil producers of Turner Valley. They are offering a certain piece of property.

MR. NOLAN: Now just a moment. Let us

he clear about this. What are we doing? I am afraid I did not follow that.

THE CHAIRMAN: And I did not either.

Q MR. FRAWLEY: I say the Royalite Oil Company is now offering to the oil producers of Turner Valley for the use of these producers, a piece of pipe line property and they desire to charge a rate down there?

A Yes.

Q They have been doing that, but I am coming or somebody is coming to this Commission and a rate is being sought from this Commission?

A Yes.

Q It is a circumstance that the rate has been charged and the property has been there. But it will be the same thing if they were just coming now for the first time offering this property to the oil producers. They are seeking a rate which they will be permitted by law and by Order of this Commission, or something to follow it up, to charge the oil producers of Turner Valley, that is true is it not?

A That is my understanding of this Commission.

Q Is it not of some importance to look at what they are offering to the public today to serve that public and on which they are seeking a rate; and on which they are seeking a return and amortization - which are the two things that are troubling us in this matter at the moment. There is no item of the cost of operating the 6 inch loop. That does not appear. The cost of operating that 6 inch loop does not appear in anybody's mind of course.

A It would be, I suppose, if it was operated, it would be in the accounts of the three years from 1929 to 1932.

Q Oh yes. But today the Commission is not troubled with any item respecting the cost of operating that 6 inch loop, coming to these 1938 costs?

A That is true.

Q Nor in 1939 or 1940?

A That is true.

Q That is not there. But what is there though is - there is nothing for operation, but there are so many dollars a year to amortize that $100,000.00 or whatever it was. That is true is it not?

A That is so, yes.

Q There is something there, so many dollars to give a rate of return on that $100,000.00 to this Company?

A That is right.

Q And it is not in the property which is offered, or available now, to the Turner Valley producers to transport their oil?

A No, it is not in the physical property.

Q Now with those basic facts to deal with, is there not something in the suggestion that be it on the present day valuation, Mr. Hill's valuation, or a build-up of historical cost basis, is there not something in the suggestion that as it is not there, and it is not being offered to the people - which is all used and useful means - that it should be eliminated?

A Well, I do not quite follow the thought of the properties being physically presented to the producers by the Royalite Oil Company for their use. I do not quite

follow that.

Q I know what your difficulty is, because I have not been using apt language. I have it clear in my own head. Now a gas company has a gas system, and they go to the Public Utilities Board for a rate which will give them a return on their money and amortization and operating charges. Well, I simply say that they are submitting this property to this Commission to be passed upon as being a piece of property which will go into the service of the ratepayers. We can now regard these oil producers as ratepayers. That is all I mean. I am seeking to go no further than to say that the ratepayer should know what property is being made available to him, on which he is paying a rate, and he is interested in what enters into the rate too. That is why I say, is there not further difficulty in my use of the expression that the physical property - that is plus service, which is working the thing - it is not just a piece of property that is being given to the oil producers, but the Royalite Oil Company is offering a service if you like, because it is a piece of working property and they are offering to transport oil through this pipe line system which we have been dissecting for the last few weeks. Is it not fair to look normally at what is being offered to these people to move their oil. Suppose we had two or three pipe lines that were still lying out there, that had not been abandoned. They had not been taken up, but they had been abandoned. There were four or five lines running into Calgary and they were not used or useful at the moment. Does

that help you? Is it still a fair illustration that there is a rate on it? What would be your attitude towards it? At least it had been built but there was no need at the moment.......

THE CHAIRMAN: Well, let the witness answer.

Q MR. FRAWLEY: What do you think about that?

A Well I would consider the circumstances under which these lines had been put there.

Q Yes?

A And if I found the circumstances along the same lines as the illustration we have?

Q Yes?

A Namely the 6 inch loop, I would put them back into investment.

THE CHAIRMAN: Now you see, Mr. Taylor, Mr. Frawley is quite within his rights in getting your opinions on something other than the particular thing that we have been brought here to deal with, because he is testing the value of your opinion. I have been quite impressed by what you said about this 6 inch line. But I am equally interested in knowing whether you stand up to such tests as may be applied to you with respect to the soundness of that opinion. So if you will avoid saying "Well if it is like the 6 inch loop I will set it up, and if it is not I have no opinion to offer"?

A Will you state it again?

Q MR. FRAWLEY: Yes. Supposing the Company had built, over the years, additional lines into

Calgary, say a couple of additional lines, and they were not at the moment in use. They were not at the moment in use. But they had not been abandoned for one reason or another in the Company's judgment, they had left them there. Would they be proper matters to take into the rate base on which to come to this Commission and ask for an amortization allowance and a rate of return?

A Applying the used and useful application, if there was some prospect of these lines being used, and they were being left there with that in view - if there was some prospect of their being used and if they were being left there with that in view and so possibly save the expenditure later to replace them or something to take the place of these lines, I would say I consider it proper to take it back.

Q Into the rate base?

A Yes.

Q You do not think it would be proper for the producer of oil, the prospective user of the line, to say "Well you have got a pipe line system there you are now using and that will take 30,000 barrels of oil a day through the pipe line, if it is forced. Now that is really all that I am interested in. It is all I want, as far as my desires are concerned. That is all I desire to take into the rate base. You are now using a system which is satisfactory for my purposes and all other producers in Turner Valley. Why should you get a rate of return and why should you be allowed to amortize this plant which is perhaps obsolete, or will become obsolete in a few years. Why do you think that

should be taken into the rate base?" Well before you answer. Has the user, the potential user of the.....

THE CHAIRMAN: He has not answered the first question. Mr. Frawley this record will disclose there is a question about a mile long and no answer, and we move on to something else. What about the first?

A I believe in that case that it would not be proper to take into the rate base the lines which had been in use and abandoned for some reason or another.

Q Well why not? You say it would not be proper. Why not?

A Because it would be putting an amortization charge against the future on equipment that had been abandoned, for what reason I have no particulars as to the reason why they were abandoned.

Q No, but assume a perfectly good reason for its abandonment. You need not care what?

A Then I would not include them for the purpose of a rate base for the future

Q Because you said it would be an amortization of something that has ceased to be useful?

A That is right.

Q Any other reason?

A No sir.

Q In what respect does that differ from this two hundred thousand odd dollars you say should be treated differently? Where do you make the point of distinction? At least what line of distinction do you draw?

A The line of distinction I draw is that the investment was made and there was a completion of the working

out of the fate of that pipe line in that it was there for three years and was taken out. We put our cash money in and we have got out cash money out, and the transaction and the working out of the position in connection with that 6 inch loop was all taken care of. Whereas in the other illustration the lines are there and they may be used again. The distinction I draw is the complete carrying out of the position in connection with the 6 inch loop.

Q MR. COMMISSIONER LIPSETT: I suppose you would put it, Mr. Taylor, shortly, that if the basis o which the rate was going to be fixed was the present day value of the assets, whether a replacement value or any other value, that we could not base it on assets which are not now there. But if, on the other hand we adopt the cash investment as a basis, then we should take into consideration all the cash invested even though some mistakes happened to be made in the investment?

A Yes sir.

Q Whether that is right or not?

THE CHAIRMAN: It may be the right view but it is not the one that the witness has just put forward in the discussion of the last illustration and the present position.

MR. FRAWLEY: No.

Q Mr. Taylor, you are emphasizing the fact that the $178,000.00 represents the cash put in back again to the prudent investment rule. I suppose you are qualifying that by saying the cash put in by a prudent man?

A Yes, cash invested after complete consideration by the

Company's officials. My thought would be that we take it in on an average with the prudent ones, or the ones that turned out well. This is one that did not turn out well, and by taking it back we are merely averaging up the investment we did make which did well. This one did not.

Q Well it does seem to me that is a third basis, I did not appreciate there was any averaging about it. You see it would not arise at all if the asset were there.

THE CHAIRMAN: May I interrupt. Offland, without any reflection about it, I wonder if the witness is right. I do not want him to destroy that impression I got......

MR. FRAWLEY: In his original statement.

Q THE CHAIRMAN: Yes, without every opportunity of explaining. Do you mind telling me again, if I do not bother you too greatly to do so, just why you would not take into account that last illustration, these lines that are in the ground and have not proved to be useful now or in the future, that Mr. Frawley mentioned to you. Why wouldn't you want a rate on that? You say the transaction is not completed because they are not pulled up. What difference does that make? You also said they might be useful some time, which would be all the more reason for giving you a rate. Now these reasons are not convincing. You are saying you would not amortize and give a rate on this illustration, and yet you would on this

pipe line. I wondered if you had anything more to say about it, that is all?

A No, I have nothing more to say.

Q All right, proceed, Mr. Frawley?

Q MR. FRAWLEY: You say that you put the cash in - well following up your last question before the Chairman spoke to you, you seemed to attach some importance to the fact of whether the investment was a prudent one or not?

A Yes.

Q That is another angle entirely of the same problem. On the basis of cash put in and cash taken out, does not that lead us back into this contentious matter of whether we should look back into the profits of the Company. This was as you say a prudent investment when made, but one that turned out to be unwise......

THE CHAIRMAN: It has not been so contentious so far as the witnesses are concerned as yet.

MR. FRAWLEY: No. But I still say it is contentious, controversial certainly.

Q Mr. Taylor, it is your opinion that we should not look back into past profits - the Commission should not look back into past profits at all, with longing eyes or otherwise, but they should deal with the situation as we find it today without any regard to the profits this Company has made?

A Yes, that is so.

Q That is what you say along with the others. Now it did seem to me now, whether I failed to appreciate it, that going back into this 6 inch loop and taking it up

and selling it at a loss, supposing that the possibility had been you had sold it at a profit, suppose you found some small pipe line company that were just very anxious to get that pipe. It was only in the ground a short time, and you had sold it at more than you had put into it, what would be the situation?

A It was not sold.

Q Yes, it was sold to another department.

A It was turned over to another department.

Q You got money, cash for it.

Q THE CHAIRMAN: Mr. Frawley said supposing it were sold to an absolute stranger, what would you do with the transaction in the books of the Company? Please answer.

A If it was sold at a profit?

Q Yes?

Q MR. FRAWLEY: If it was sold at a profit?

A It would become a capital profit.

Q Well a profit?

A Yes, a profit.

Q And if it was sold to this outside oil company at a loss it becomes a capital loss?

A That is right.

Q Do I understand them you draw an absolutely hard and fast distinction between the propriety of going back and looking at capital losses and profits, and going back and looking at operating losses and profits. Do you draw a distinction. If so why?

A Yes, there is a distinction drawn.

Q Why?

A I draw a distinction.

Q Why?

A Just on the grounds that I have stated before about the investment of this money and the inclusion of it as part of the investment in the pipe line.

Q No. You mean because the profits were put back into the investment?

A No, not for that reason.

Q Perhaps I did not follow you. Why do you draw the distinction? My question was, you might just sort of expand upon that and say what the real difference is between that sort of profit and loss that the Company made on the sale of this piece of 6 inch loop that was taken up, and the other kind of profit or loss on carrying oil, because it cost that much less than the rate which you charged.

A There should be no distinction.

Q There should be no distinction?

A No.

Q But you are taking the Commission back into the transaction are you not, surrounding this 6 inch loop?

A Yes, that is so.

Q Well then, do you agree at all that we are entitled to go back into other kinds of profits and losses and take due cognizance of them in the fixing of a rate?

A No.

Q You say no?

A No sir.

Q Well you have not to me given any reason for that

difference. Why? Why the distinction? Is there any?

A I would say now there is no distinction.

Q Still we cannot go back into one and we should go back into the other?

A That is the effect of it.

Q Well now, that is the effect, Mr. Taylor, arising out of the method which you have used. That is true is it not?

A Yes.

Q But it is not the effect if we have regard to the method which Mr. Morrison has used? That is also true is it not?

A That is true, yes.

(At this stage the Hearing was adjourned until 2 P.M).

....

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

WITNESS: My Lord, before we commence this afternoon, you asked for a rate based on varying rates of return and I promised to bring that this afternoon and I have it here, and I would like to file it if I may?

THE CHAIRMAN: Thank you, it will be Exhibit "116".

(STATEMENT PRODUCED BY THE WITNESS HERE MARKED AS EXHIBIT "116").

Q THE CHAIRMAN: How do you describe that, Mr. Taylor, it is described on the top?

A It is described on the top sir.

Q Yes?

A The statement is headed "Royalite Oil Company, Limited, Pipeline Department, Comparative Statement of Cost of Handling, Gathering and Transporting Oil in Cents per Barrel at Varying rates of return on Invested Capital Based on the Nine Months' period ending September 30th, 1938 on Amortization from January 1, 1939 on the Basis of 5 years, 10 year, 15 years, 20 years, 25 years, and 30 years". Now the invested capital is taken from the Exhibit which I previously filed.

Q Is it your report?

A That is the statement of investment, net earnings,rate and cost per barrel, it had four statements in it.

MAJOR LIPSETT: It is Exhibit "110".

MR. NOLAN: We have been calling that the 5, 10, 15, 20 year statement, that is Exhibit "110".

THE CHAIRMAN: The investment capital is taken from Exhibit "110".

Q MR. NOLAN: Are not the figures for the invested capital---

[illegible]

A The figures for the invested capital are here on the C Exhibit , there are four Exhibits in that and the C Exhibit for the nine months ended September 30th, 1938. The capital figures can be traced from there into this new Exhibit which I now have before us. On the 5-year period $1,79,679.98; on the 10-year basis $1,249,185.66; on the 15-year basis $1,342.204.53; the 20-year basis $1,388,444.01; on the 25-year basis $1,432,802.79; on the 30-year basis $1,465,831.73.

Then the cost per barrel is taken from the "d" Exhibit, the one just following, in Exhibit "110", for the nine months ended September 30th, 1938, costs per barrel, 6.99¢ on the 5-year basis; 6.10¢ on the 10-year basis; 5.72¢ on the 15-year basis; 5.54¢ on the 20-year basis; 5.39¢ on the 25-year basis and 5.28¢ on the 30-year basis.

In the memorandum attached to the front of Exhibit "110" we find these words:

> "We wish to point out that the Income Tax per barrel shown on the attached statements is the Income Tax on the profit actually made in these years and that there should be substitut d, therefore, the Income Tax per barrel which will emerge from such rate as may be set".

And I may say that Income Tax feature has been taken care of in these figures, in the next figures which we have to consider.

Q THE CHAIRMAN: They are taken into account in this Exhibit "116"?

A Yes. The Income Tax is taken into account in that and following on the cost per barrel after providing for Income Tax and

a return of invested capital at the rates following, at 10% on the 5-year basis 9.26¢; on the 10-year basis 8.73¢ per barrel; on the 15-year basis 8.54¢ per barrel; on the 20-year basis 8.46¢ per barrel; on the 25-year basis 8.40¢ per barrel; on the 30-year basis 8.36¢ per barrel.

12½%, 9.82¢ per barrel on the 5-year basis; on the 10-year basis 10.04¢ per barrel; on the 15-year basis 9.95¢; on the 20-year basis 9.91¢; on the 25-year basis 9.90¢; on the 30-year basis 9.90¢.

17½%, 10.96, 10.69, 10.66, 10.64, 10.66, 10.66.

At 20% rate of return 11.53 on the 5-year basis; 11.36 on the 10-year basis; 11.36 on the 15-year basis; 11.37 on the 20-year basis; 11.42 on the 25-year basis; 11.45 on the 30-year basis.

Q MAJOR LIPSETT: Have you the figure for your year 1946, Mr. Taylor?

A That is all figured up to the year 1946 and the memorandum in the front of these four statements shows that.

"Exhibits A and B attached hereto have been prepared applying the same principles as are set out in our report dated January 7th, 1939 and the Exhibits attached thereto. The same comments apply also to Exhibits C and D, except that in the case of these Exhibits a salvage value of 10% for the 5, 10 and 15 year periods and 5% for the 20, 25 and 30 year periods has been assumed".

Q But have you the figures translated into the rate per barrel based on your figure that depreciation should be written off by 1946, completing your own evidence?

A I have not made that calculation, sir, because I felt that

the request for the 5, 10, 15, 20 year basis indicated to me that the Commission were going on to consider the life of the field and fitting it into whatever period might apply.

THE CHAIRMAN: You cannot make any such assumption. We are getting a lot of data in front of us.

WITNESS: No, quite.

THE CHAIRMAN: But we will come to our own conclusions.

WITNESS: I could quite readily have it prepared on the basis of my own submission.

Q THE CHAIRMAN: Just carrying your evidence through to its logical result as being so much a barrel?

A Yes.

Q As you have done here?

A Yes.

Q MAJOR LIPSETT: Now, Mr. Taylor, do these figures in cents per barrel, do these give any consideration to the salvage value at the end of those periods?

A These figures do, yes.

Q They allow---

Q THE CHAIRMAN: That is in Exhibit "116"?

A Yes, they allow for salvage value.

Q MAJOR LIPSETT: Is that a slavage value of 10% on the 5, 10 and 15 year periods?

A Yes.

Q And 5% on the 20, 25 and 30 year periods?

A Yes.

Q Your calculations cover that too?

A That is correct.

Q THE CHAIRMAN: We asked Mr. Morrison to round out his evidence too, in so many cents ber barrel.

MR. FRAWLEY: Yes and that will be ready tomorrow.

THE CHAIRMAN: Then Mr. Frawley, I do not know whether we asked it or not, but I think we did, at any rate we do ask that Mr. Morrison also completes Dr. Boatright's evidence.

MR. FRAWLEY: Yes, that is coming on too.

THE CHAIRMAN: Dr. Boatright left with that calculation to be made by Mr. Morrison.

MR. FRAWLEY: That is quite right, that is being done. Mr. Morrison calls my attention to the fact that he has given the rates at 8½ and 10, just those two, he has given you 8½ and 10. He might really have stopped for his own purposes at 8½,to complete his own evidence.

THE CHAIRMAN: He has not yet carried that out in a statement.

MR. FRAWLEY: No, it has not been submitted yet. It is just 8½ and 10 that Mr. Morrison has given it up to, but Mr. Morrison says he can bring it up to 12½ and 15 if you desire, to have Mr. Morrison's evidence complete as to the rate of return, taking these different periods, that is being done in that way, and so long as it is understood what Mr. Morrison is doing.

THE CHAIRMAN: He is giving 8½.

MR. FRAWLEY: And 10. Otherwise it is similar to what we have in Exhibit "116", the different periods, the figures are different of course.

MAJOR LIPSETT: Well we do not want anything from Mr. Morrison except to complete his evidence on the 8½ and 10%

but he also has given us a set of figures taking off 10% depreciation. He has given a separate figure as appeared in the company's books and I presume he will complete that too.

MR. FRAWLEY: That is being completed also.

THE CHAIRMAN: One hates to ask for things which are difficult of performance, that is entailing a lot of work, does it involve a great deal of work in addition to taking the years that Mr. Taylor has here, Mr. Morrison?

MR. MORRISON: Oh no, that can be done.

MR. FRAWLEY: If you wish that to be done then we can do it.

THE CHAIRMAN: Then we have the two points of view directed to the same thing.

MR. FRAWLEY: We have done the years and we will do 12½, 15, 17½ and 20.

THE CHAIRMAN: Yes, if it is not a lot of work.

MR. FRAWLEY: No, we will do that.

Q MR. FRAWLEY: Mr. Taylor, as you are submitting a supplementary statement to Exhibit "116" showing your exact figure of 8 years, it will be, will it not, to be comparable to this, starting with the 1st of January 1939, it will be 8 years?

A Yes, I start with the 1st of January, 1936.

Q But to be comparable to Exhibit "116", to make it comparable, you will do 8 years, will you not, from the 1st of January 1939?

A Yes, it will be done on that basis.

Q In view that you are doing that I will not comment upon it at all except to say that perhaps it would appear that your rate would be somewhere between 11½¢ and 13.36¢, about 11 3/8¢?

A At what rate is that.

Q At your rate of 20%.

A Yes, it will fall between those two.

Q THE CHAIRMAN: You are going to do that exactly?

A Yes, but that is how it will fall.

Q MR. FRAWLEY: Now, Mr. Taylor, can you tell me precisely how the figure which was, the value which was credited after the 6-inch loop was sold, how that was credited in the books, how that credit was arrived at, the value which was credited?

A I believe it was arrived at, a valuation made of the pipe that came up and the condition it was then in, it was a company valuation.

Q It was a company valuation?

A Yes.

Q So that the amount of loss which was shown, depended upon the bookkeeping, the valuation, the company valuation?

A Yes.

Q And the entry made in the books?

A That is so.

Q Now Mr. Taylor, we were discussing the other day the value of money, the total of money put into the indirect assets as shown on Exhibit "109" and it totals $121,024.57?

A That is right.

Q And then from your report---

THE CHAIRMAN: What did you say, Mr. Frawley, Exhibit "109"?

Q MR. FRAWLEY: Exhibit "109", the total of the additions, including the original amount of the additions thereafter, in utility assets, percentage credited or charged up to the pipeline division?

A That is right.

Q

Q Were $121,024.57?

A Yes.

Q And then I find on page, On Exhibit A of your report, Exhibit "100" that the proportion of investment in utility assets and service units applicable to the pipeline department, allocated on a direct operation basis, was as of the 30th of September 1938 $324,252.85?

A That is correct.

Q And the total of the investment was, as of the same date was it, or was it as at the end of the year 1938, that $121,024.57?

A I think that would be for the nine months, I am not entirely sure of that.

Q It would not vary very much?

A It is the nine months ended September I think.

Q Well is it fair to say, now just correct me of course if I am wrong, is it fair to say that the $121,024.57 being the total of the cash invested has now become, on your method of allocation, $324,252.85?

A That is so. The $324,252.85 is the proportion on the basis of the overhead rate used as of September 30th, 1938.

Q So that addition is made up, is it, of profit accumulations?

A I would not say that. It is assumed that the two things are not related at all. This $324,000 is the amount which is arrived at out of the overhead calculations.

Q Well then, I thought a moment ago you said they were related and then if they were related, my suggestion that the balance represented profit accumulations would have some force, would it not?

A I cannot visualize the relationship.

Q All right then, there is no relationship. They are called the same things. Perhaps it is a weakness in this system

of yours, Mr. Taylor, because we know now, we know now on your method of calculations that the pipeline has an interest, a proprietary interest or whatever you want to call it, in these indirect assets amounting to $324,000 , that is right is it not?

A Yes, that is right.

Q Well, then, and we know too, that all that the pipeline departments put in, using that expression as the best we can, we know they put in $8,000 in 1925?

A Yes.

Q And so on and so on and so on?

A Yes.

Q And they put in $5,000 in 1938?

A Yes.

Q And that they put in a total over those years $121,000?

A That is correct.

Q Well then I say that it is either one thing or the other, either your system is not very accurate or it does mean that $121,000 has become $324,000, now which is right?

A The $121,000 is made up of applying the overhead rate year by year.

Q Yes.

A And the September 30th, 1938 figure is an application of the overhead figure for that year, for that particular nine months.

Q You mean you took what the total, what the company had, the whole Royalite Oil Company had in indirect assets as of the 30th of September, 1938?

A Yes.

Q And you found by using the percentage, the percentage method which you have used, that the pipeline has an interest in these assets amounting to $324,000?

A That is right.

Q But the fact remains as evidenced by Exhibit "109", that the total which, of cash which the pipeline department put into these kinds of assets, was $121,000, that is true is it not?

A That is so, yes.

Q You say the one is not a result of the other, the one is not a child of the other?

A No, because we are dealing with the average situation over 13 years in arriving at the $121,00 and the position is at a specific date in the case of the 324 thousand.

Q Yes, well it is sort of puzzling to me but that perhaps is not important. I thought there was some relation between the two?

Q THE CHAIRMAN: I suppose it is quite plain to you, Mr. Taylor, forgive us for bothering you over things which we do not readily understand, which do you say we should act upon, the figure of 121 thousand or 324 thousand, as being the utility assets properly allocated to,- the value of the utility assets properly allocated to the pipeline department?

A The 121 thousand, sir, that is the one.

Q MAJOR LIPSETT: Well, Mr. Taylor, translating that to your Exhibit A of Exhibit "100" and putting the figure in there of $121,024,57, what would that make the earnings on your basis for the year 1938, that is for the company out of the pipeline?

A The rate of return, it would make a difference in the amortization, you would be amortizing on a different amount. In the meantime, in the figures as they now stand, the amortization has been taken on the 324.

Q But would it not put your actual percentage ofn earnings

away above this 41 odd per cent?

A Yes, because it would reduce the capital and it would increase the revenue.

Q Can you give us that figure?

A Yes, I can give you that.

(Go to number 2973).

Q MR. FRAWLEY: You will do that, will you, Mr. Taylor?

A Yes.

Q Not at the moment?

A No, I cannot.

MR. NOLAN: That calculation is going to take a little time, Mr. Chairman. It will take at least two days.

THE CHAIRMAN: Oh.

MR. NOLAN: So I am informed.

THE CHAIRMAN: I suppose you can tell us, Mr. Taylor, best, as to how long it would take you?

A It depends on how late we work at night.

MR. COMMISSIONER LIPSETT: What I was asking Mr. Taylor to do was to substitute the figure of $121,000.00 for the $334,000.00 odd.

A I wish to state, Mr. Commissioner, that these amortization calculations look simple on the face of them but they are quite involved. But I will make a point of getting it out at the earliest possible moment.

A I do not see, Mr. Taylor......this figure, if you look at Exhibit A?

A Yes, sir.

Q This figure on Exhibit A of Exhibit "100". You give that figure of $324,252.00 as the proportion of investment in utility assets applicable to the pipeline department?

A Yes, sir.

Q Allocated on a direct operating labour basis?

A Yes.

Q And in Exhibit "109" you give percentage of utility assets in actual money as $121,024.25?

A Is that on Exhibit C8?

Q Exhibit "109". What I was asking you to do was to substitut-

the $121,000.00 odd for the $324,000.00 odd in that Exhibit A and to bring out the resulting rate of interest on the investment on that basis?

A I am afraid I would have to refer to Mr. Maw as to just how long that calculation may take.

Q I think I can make it myself in five or ten minutes. I do not know why the two days.

MR. NOLAN: We can explain to you, sir why you cannot.

MR. FRAWLEY: I am going to bring something to Mr. Taylor's attention which may clear the thing up. You said a moment ago in answer to the Chairman that for the purpose of the rate-base you would take $121,024.57 on Exhibit "109" rather than the sum of $324,252.85 as shown on Exhibit A, as being the amount of the pipeline interest in the utility assets. Now, it is suggested to me you did not mean that. That it is not the $121,000.00 you would take but the $324,000.00. What do you say?

A The calculation, as I understood Major Lipsett to ask for was a calculation substituting the $121,000.00 for the $324,000.00.

Q Yes, and I am speaking about what the Chairman asked you a minute ago. The Chairman asked you which one the Commission would take as the proper figure to represent the interests of the pipeline department in the indirect assets. You said that the Commission should take the figures shown on Exhibit "109", namely, $121,000.00, rather than the figure shown on Exhibit A of "100", namely, $324,252.85. Were you correct in that answer?

A Yes, sir, I was correct in that answer.

Q All right then. On Exhibit "116" then, which you just filed

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this afternoon, showing the net invested capital, if we had a break-down of any one of these amounts we would find in there under the heading of Indirect Assets?

A $324,000.00.

Q Yes. Well, $324,000.00. If you still maintain that your answer to the Chairman a moment ago was correct why then you have not got the proper rate-base on which to calculate your rate of return, have you?

A That will be at $121,000.00, which I have said is the proper amount.

Q Then does it not follow that Exhibit "116" does not have the proper amount as to the invested capital upon whch to calculate the rate of return?

A That is so. It works down to that.

Q Then I presume we will have a variation of Exhibit "116" filed?

THE CHAIRMAN: I just wondered if the witness is just momentarily confused about that. None of us want any confusion.

MR. FRAWLEY: Oh, no. Suppose we pause there so as to give Mr. Taylor a chance to confer with his assistant, Mr. Maw, to be quite certain.

THE CHAIRMAN: Just to give Mr. Taylor time to think the matter over, because we do not want an answer that does not truly reflect the witness' opinion.

MR. FRAWLEY: Nor do we want unnecessary work done over again if that is not so.

THE CHAIRMAN: If you think that worth while, we will have a short rest.

MR. NOLAN: Perhaps, I can help you. I have not helped yet, but, perhaps, I can help a little now.

THE CHAIRMAN: I would not say that.

MR. NOLAN: The $121,000.00 figure that we have got before us is not the cash investment in utilities or indirect assets. It is the amount of money which would have had to be put in in cash in each of those years, applying the percentage which we have used as the basis of our calculation.

MR. FRAWLEY: We understand that.

MR. NOLAN: We have been dealing with this $121,000.00 as the amount of cash put in. It is not cash. It is the amount of cash which would have had to have been put in, applying the basis that we use, from year to year, with the varying percentages which we apply to this particular distribution of the indirect costs.

THE CHAIRMAN: Then do you say that the figure of $324,000.00 is the allocation of the actual cash?

MR. NOLAN: No, it is not the allocation of actual cash. It is what the position would have been in the year 1938, on September 30th, applying in that year the figure of 28.8996%, being the percentage we were using in that particular period. Is that right?

MR. FRAWLEY: Yes, that is right.

MR. NOLAN: Therefore, it follows that the figure that Mr. Morrison and ourselves would show in our reports, my Lord, as at September 30th, 1938, would not be the figure of $121,000.00. Our figure would vary from it, and so would Mr. Morrison's. The extent of the variation would not be the same because the percentage that he is using is less than the percentage we use by about 10%. So that we would find in the statement at September 30th, 1938, of Mr. Morrison's that he would put down as the proportion of investment in these indirect assets a sum of

approximately $200,000.00. It would come to $202,500.00 on my rough calculation.

MR. FRAWLEY: $181,499.04.

MR. NOLAN: May I look at page 23 of Mr. Morrison's report. This may not be futile, my lord, if I may just have a moment. It would be, I think..... Mr. Morrison would, perhaps, wbe good enough to correct me - 18% of $1,125,366.78, less the amortization reserve. Your figure, Mr. Morrison, I accept quite readily. It is $181,000.00?

MR. MORRISON: Yes.

MR. NOLAN: Showing that the figure of $121,000.00 as contained on Exhibit "109" is not the figure that we would use for rate-base purposes, because in that year of 1938, ending September 30th, we apply the figure of 28% and my friend Mr. Morrison applies the figure of 18% and we both arrive at a figure in excess of $121,000.00. I do not think there is any great difference of opinion between us on that.

MR. MORRISON: No.

MR. COMMISSIONER LIPSETT: What, exactly, do you say the $121,000.00 represents, Mr. Nolan? Does it represent what was treated as actual figures from calculations made by anybody?

MR. NOLAN: It has never been done before. We start to do it now and we get a figure of $121,000.00, and that total of $121,054.57 represents the amount of cash which would have been required to be invested from pipeline department funds in order to provide their proportion of the indirect assets. Is that wrong?

MR. MORRISON: No.

MR. NOLAN: I do not want to be wrong, because it

only adds confusion to confusion.

MR. FRAWLEY: I am glad Mr. Nolan does not want to be wrong.

MR. NOLAN: I want to get this cleared up, if I can. We have a figure of $121,000.00, and we are all assuming it was money put into indirect assets, and it was not.

MR. COMMISSIONER LIPSETT: But if that is the sum that represents what they would have to put up for indirect assets year by year and that total is $121,000.00......

THE CHAIRMAN: That they should have put up.

MR. COMMISSIONER LIPSETT: That they should have put up, why should the Royalite for the purposes of this Enquiry charge this department with another figure, either double or treble that amount?

Q MR. NOLAN: Well, Mr. Taylor, you can answer that. Why should they?

THE CHAIRMAN: Mr. Morrison, apparently, does the same thing.

MR. NOLAN: It is our common fault, if it be a fault, and why did we do it?

THE CHAIRMAN: As I understand you now, before the witness answers, and so that I may have the premise aright, you are saying the fact is if this department had been treated as a separate entity, this pipeline department had it paid its proper share would have put up in money this $121,000.00?

MR. NOLAN: Yes.

THE CHAIRMAN: Is that right?

MR. NOLAN: That is right, my lord. But when we came to give the figure to the Commission as at September

30th, 1938, for rate-base purposes, the figure is greatly in excess, both on your report and in excess in Mr. Morrison's report?

A That is so.

Q Why is it so, in excess. Why is it not $121,000.00?

A Because it is based on the overhead percentage at September 30th, 1938, whereas the $121,000.00 is the average over the years back to 1925.

Q Each year back to 1925?

A Each year there is a new percentage applied as the proportion of the assets, which really has no relation to the additions.

Q Perhaps, we have got something there. Each year back to 1925, according to Exhibit "109", a percentage is applied of the amount of the cash which would have been required in that particular year?

A Yes, sir.

Q To provide the pipeline department with these indirect utility assets?

A That is right.

Q And that is carried out as a total?

A Yes.

Q And that is done from year to year?

A Yes, sir. The company may not have used all that percentage, or it may have used more or less, and you have a position where you come to the end of the year and you know exactly what the balance of the utility assets is and you apply your percentage. So that the two things are not related. They are not directly related.

Q The average percentage used from these years 1925 to 1938 in Exhibit "109" would be slightly in excess of 10%, would they not? Because we have 10.39 and 11.57 and 9.73 and 10.90 and so on. Your average would be.....

A Would be averaged over....

Q Slightly over 10%?

A I would not like to say that.

Q Well, it is 10,11,9,10,11,9 and 15. It is somewhere in the neighbourhood of 10%. But the percentage you are using now is 28%?

A That is correct.

Q Will pass the $121,000.00?

A Yes, it does.

Q And is that not the reason why you get the $324,000.00?

A Yes, that is the reason. Because we are using, September 30th, 1938.

Q You are using the 28% figure as at that date?

A Of the utility assets actually on hand at that date.

Q As opposed to the period in Exhibit "109" of thirteen years, where an average percentage is slightly in excess of 10%?

A That is so, yes.

Q THE CHAIRMAN: And having taken the 10%, perhaps arbitrarily, or the 18% or the 28%, as the case may be, some time we are interested in what we should act on. I understand in the result there is a wholly different percentage used in this last calculation for the year 1938?

A Yes.

Q But this comes down to 1938 too?

MR. NOLAN: True.

THE CHAIRMAN: And the result obtained here is different from the result obtained there because of the different percentage used.

MR. NOLAN: That is right. Now, you say to me: What percentage should the Commission use?

THE CHAIRMAN: Yes. We are getting a lot of calculations

but ultimately what do we do?

MR. NOLAN: Then we say on our basis, as we do, on an operating labour basis, being the relation between the number of men employed on any operations in the pipeline as compared with the number of men employed by the Royalite Oil Company in operations, we arrive at a formula or an equation, and we apply it each year.

THE CHAIRMAN: And that would account for the difference

MR. NOLAN: In the percentages.

THE CHAIRMAN: Between Mr. Morrison and Mr. Taylor.

MR. NOLAN: It accounts for the difference in Mr. Taylor's from year to year. He does not get the same percentage each year either.

THE CHAIRMAN: Quite so. But he ultimately arrives at 28%, we will say?

MR. NOLAN: For this last period;

THE CHAIRMAN: Yes. And Mr. Morrison ultimately arrives at 18%. I want to know how they get up from 10%, either of them?

MR. NOLAN: Because each year, sir, when you apply either Mr. Morrison's basis or our own, you are going to get a different percentage from that which you had the year before. It may go up and it may go down, depending upon the relation, in my case, as between the number of men employed in the operating department of the pipeline as compared to the number of men employed in total operations, in Mr. Morrison's, because, as you remember, his is the number of men employed in the pipeline department compared to all those employed in the whole company, whether on capital or on operation. They take a payroll and from that payroll they find out what the percentage will be to be

applied for that year. They do not know what it is going to be.

THE CHAIRMAN: Suppose 28% or 18%, as the case may be,.....

MR. NOLAN: The 18% gives you $181,000.00 and the 28% gives you $324,000.00.

THE CHAIRMAN: Is that for the year 1938?

MR. NOLAN: That period.

THE CHAIRMAN: Just for the nine months' period?

MR. FRAWLEY: As of that date.

THE CHAIRMAN: Without relation to the years that have gone?

MR. NOLAN: No.

THE CHAIRMAN: And I understand that these have relation to many years back.

MR. FRAWLEY: It is the total of the amount put in.

THE CHAIRMAN: I have it at last.

MR. NOLAN: Then I have been of some assistance.

THE CHAIRMAN: Great assistance.

Q MR. FRAWLEY: Now, Mr. Taylor, thanks to Mr. Nolan's enlightening remarks, will we now say which amount is in Exhibit "116" for rate-making purposes?

A $324,000.00.

Q He says $324,000.00?

A Yes, $324,000.00, whatever the figure is.

THE CHAIRMAN: Mr. Nolan, since you have been so helpful, these are on a 10% basis arbitrarily taken?

MR. NOLAN: For the first five years. Arbitrarily taken for the first five years without regard to what the percentage might actually be if we had applied our basis.

THE CHAIRMAN: And after the first five years you apply your own basis?

MR. NOLAN: Yes, from 1931 on we apply our basis.

MR. COMMISSIONER LIPSETT: Does that arbitrary basis for the first five years, does that equally apply to the figures in Exhibit "109" and the figures in this Exhibit "100"?

MR. NOLAN: No, because in Exhibit "100" we only take it up at 1931, sir. That is where we begin.

MR. COMMISSIONER LIPSETT: You begin with a figure, what I take to be a carry-on figure of $107,000.00 on that date?

MR. NOLAN: Just excuse me a moment.

THE CHAIRMAN: Certainly.

MR. NOLAN: I am informed, Mr. Commissioner Lipsett, that the figure of $107,408.00, appearing in Exhibit A of "100" is the actual figure as at that date on a percentage basis of 10.3912 and is not referable to anything that has gone before.

MR. COMMISSIONER LIPSETT: That was taken on a basis of 10.39 then?

MR. NOLAN: Yes. That is the actual basis, the actual percentage which would emerge from the basis which we used that year.

MR. COMMISSIONER LIPSETT: In this Exhibit "109" you take an arbitrary figure - not using that in any offensive sense - of 10%?

THE CHAIRMAN: For the first five years.

MR. COMMISSIONER LIPSETT: For the first five years.

MR. FRAWLEY: It has nothing to do with Exhibit A, sir, though.

MR. NOLAN: I am told, sir, Exhibit "109", from 1925 to 1930 inclusive, there was an arbitrary 10% figure taken; after that they are actual percentages.

THE CHAIRMAN: On your basis?

MR. NOLAN: On our basis.

MR. COMMISSIONER LIPSETT: And in the case of Exhibit "100 A" it was taken up till 1931 at 10.39%?

MR. NOLAN: No, nothing that happens before the 31st of December, 1931, comes into that statement at all. That is where it begins.

MR. COMMISSIONER LIPSETT: But it starts with $107,000.00, Mr. Nolan.

MR. NOLAN: That is right. You see in that year, sir, there was $1,000,000.00 worth of indirect assets, roughly, in that year 1931, and applying our percentage of 10.39, on our basis, you get a figure of $107,000.00.

MR. COMMISSIONER LIPSETT: What I was putting, at that date, Exhibit "109" and Exhibit "100A" ought to practically correspond. One was taken arbitrarily at 10% and the other was taken at 10.39%.

MR. NOLAN: There is another difference anyway as noted there on Exhibit A of Exhibit "100", "The investment shown above as at the end of each period represents the balance at the beginning of the period plus one-half the additions for the period." And that is taken into consideration too, both by Mr. Morrison and ourselves.

MR. COMMISSIONER LIPSETT: Would that account for anything like the difference that appears in these two sets of figures?

MR. NOLAN: No, it would account just for part of it.

MR. FRAWLEY: If it helps at all, Mr. Chairman, Mr. Morrison tells me that so long as we keep comparing these two Exhibits, "109" and "100A", we will be in trouble and stay in trouble.

MR. COMMISSIONER LIPSETT: Are you going to take the blame

for starting it?

MR. FRAWLEY: I was thinking that, because it was my question, which was trying to build up the $121,000.00 into the $324,000.00 that started all this trouble.

MR. COMMISSIONER LIPSETT: Perhaps, we could get a complete explanation from some witness?

MR. FRAWLEY: I will undertake to have Mr. Morrison endeavour to explain what he understands from these two Exhibits. They are not his Exhibits. But at least I will have the benefit of comparing them with Mr. Morrison and asking him then to make a submission.

THE CHAIRMAN: It must be remembered, I suppose, Mr. Taylor has not done all the detail work on all these?

A I did not, sir.

Q And, consequently, he cannot so readily speak of the effect of the detailed figures?

A Yes.

Q THE CHAIRMAN: You have a man who has done the detail with you, Mr. Nolan, and he, perhaps, would prefer to explain it.

MR. FRAWLEY: Now, the thing is as to whether that should be done separately. I have just a few more things to pass to and then I am finished.

THE CHAIRMAN: Considering we were concerned with releasing Mr. Taylor last Friday, I think we should get along with him.

Q Mr. Taylor, I think you said in your evidence in chief that the figure of 10 years which you took back to 1936, and went forward to 1946, the figure of 10 years was given to you?

A Well it was selected before I arrived in Calgary.

Q Yes, so that it was selected by the Royalite Oil Company?

A It was struck, I believe, between Mr. Humphries and the company, I was not here and I cannot say as to that.

Q Well you did not get it, from whom did you get it and let us see if we can trace it back to its source, from whom did you get it in the first instance?

A The calculations were under way on that basis when I arrived.

Q When you arrived?

A When I arrived and they continued on and when the period of 12 to 13 years emerged from it, it did not emerge until the calculation was completed but the average, the average year was between 12 and 13 years and I applied my judgment to that as to whether that was a reasonable length of time over which the capital should be invested.

Q Well---

Q THE CHAIRMAN: I didn't catch it, Mr. Taylor, what did you say about the 12 and 13 years?

A That is the calculation of the number, of the weighted average of number of years that the capital was employed, taking the 1946 as the expiry date.

THE CHAIRMAN: Oh yes.

Q MR. FRAWLEY: Oh yes, maybe we are speaking of the same thing, but you have projected the life of the field or the life of this equipment, of this property, for rate making purposes, to 1946?

A Not for this purpose. My report clearly shows that it is a calculation merely having regard to the return of capital in what I consider a reasonable number of years.

Q In other words---

THE CHAIRMAN: Mr. Taylor expressly said that he does not agree, has not cared anything about the life of the field in arriving at his conclusion, now he has said that definitely.

Q MR. FRAWLEY: Yes, and I want to be very clear and I was immediately proceeding to get that clearly from him, you yourself, - whatever the Royalite Oil Company may think about it, - you have nothing at all to do and you are not concerned at all with the life of the field.

A Not at all. I am concerned with getting my capital back in some reasonable time, what I consider a reasonable time.

Q And you did not get then, you didn't get the 10 years from the Royalite Oil Company then?

A I didn't, no.

Q And so far as you know your Calgary agents did not get the 10 years from the Royalite Oil Company?

A I do not believe they did.

Q Then did your Calgary agents, Mr. Humphries and Mr. Maw, they were working on 10 years when you came?

A Oh yes.

Q And all we have here from you is the finished result of their work?

A That is right.

Q So Mr. Maw and Mr. Humphries had this same 10 year period and for the same purpose, when you came here?

A That is so, yes.

Q And so far as you know, Mr. Maw and Mr. Humphries were not in any remote degree, more than you are, concerning themselves with the life of the field?

A That is my, that is so, yes. My report states that the period taken is 10 years from 1936 and the calculations were well under way when I arrived in Calgary and I reserved my judgment at to whether it was proper until I discovered that the calculations gave me back my capital in 12 to 13 years and I felt satisfied with that period.

Q You do not know that the Royalite Oil Company had been preparing any records at all based upon a 10-year life of the property?

A No, I didn't know of them having done that at all.

Q So that if Mr. Humphries and Mr. Maw were working on 10 years, you have no reason to suppose at all that they got that after a consultation with the Royalite Oil Company?

A I have no knowledge as to just what, how the 10-year period came about but when I arrived in Calgary I looked, and it looked reasonable, and I did not apply my judgment to it until I worked out a calculation, that it gave me my capital back in 12 to 13 years and I felt satisfied that that was a reasonable time in which I should have it back.

Q Why did you go back to 10 years from 1936, I mean why did you take 10 years, going back to 1936?

A I didn't take the 10 years going back to 1936, the calculation was under way on that basis when I arrived in Calgary.

Q Going back to 1936, it was a 10 year period from 1936?

A A ten year period from 1936 to 1946.

Q To 1946?

A Yes.

Q And I thought you said something, and if I am wrong, certainly correct me, about that it was in that year that some oil was found in quantity, some crude was found in quantity, did I misunderstand you?

A That is in the report.

Q Oh, that is in the report?

A Yes.

MR. NOLAN: Page 4, Mr. Frawley, the 4th line.

Q MR. FRAWLEY: At the bottom of page 3 you say:

"As no one of these three factors is capable of being definitely ascertained it becomes necessary to assume a period of time over which to spread the provision for amortization of the capital expenditures which have been made from the commencement of the laying of the first pipeline to September 30th, 1938, and to apply the resulting annual charge to to the period of 7 years and 9 months covered by the attached statements of operations. December 31, 1946 has been taken as the date by which the capital should be returned in full, being 10 years after the new crude field was brought in, in 1936".

Well are you not having some regard to the length of time which this new crude discovery of 1936 is going to last?

A There is the period when, it looks as if there is going to be some chance of the capital coming back and we are looking to get it back in 10 years, out of 10 years' production, regarding ourselves as a business proposition,

gets its capital back in ten years, from 1936.

Q Yes, that is right and you go on:

"This calculation does not presume to measure the life of the field but is merely a calculation spread over what we consider a reasonable period of years".

Is there any more than just a passing importance to the fact that you went back to the time when Turner Valley Royalites No. 1 came in and crude was found and crude began to come through that pipeline in quantity and you project that over 10 years, I mean is it an unfair suggestion that you did have---

A I was not, I didn't consider any number of barrels of oil could be gotten out, I didn't consider that at all or attempt to measure the life of the field,as I say in my report I took a period of time, I considered a period of time over which I could get my capital back.

Q Well that is right, I do not want to labour it but you want your capital back as you say on the top of page 4, you say the date by which the capital should be returned in full, namely, 10 years, after the new crude field was brought in, well, - and really for practical purposes, whatever the basis was, it works out at some eight years from now, from the 1st of January 1939, from the beginning of 1939 to 1946?

A Yes, 8 years from now.

Q And you say that is your figure regardless of the life of the field?

A That is right.

Q Then what that means, Mr. Taylor, is that just supposing some of these petroleum engineers were correct at all, that means

that, and supposing it is correct to the point of oil being still coming through that pipeline in twice 8 years, in 16 years, what is the situation that we have to face, on your basis?

A If it turns out that that is so then the amortization is taken for too close a period.

Q Yes, and what is the result, what happens?

A Your charges for amortization are high,

Q I am sorry, I didn't get that.

A Your charge for amortization would be higher in the shorter period.

Q Yes, but I mean, this is what I am putting to you, just simply, supposing we accept your views of 8 years, and the rate is fixed on that basis and then we find that 8 years from now there is oil, and there is oil 16 years from now, I just want to know what that situation results in, what does it mean to us?

A Well the figures necessary to calculate that have been given in the Exhibits.

Q MR. NOLAN: Exhibit "110"?

A Exhibit "110".

Q MR. FRAWLEY: Oh yes. Perhaps I am not making myself clear, I am thinking in terms of the rate, in terms of the rate,

A It would mean that the amortization taken on those figures should be extended over a longer period, which has been done in these statements I have spoken of and it would give it, would give a lower figure, a lower period for amortization and it would increase the profits.

Q Yes, and probably would justify a much lower rate?

A Oh yes, that would be so.

Q That is another angle---

THE CHAIRMAN: What did you say then?

MR. FRAWLEY: And would justify a lower rate and he agreed with me but that was not precisely what I meant, I mean if your basis was accepted and a rate was accepted on the basis of your submission and then the thing goes through to 1946 and there is still oil to be carried, what do we do, do we go on charging at your rate, that is really what is troubling me?

A Well we do not but the calculations which are in this Exhibit take cognizance of that and take those figures on to 5, 10, 15, 20, 25 and 30 years.

Q Oh well those are alternative submissions, you might say, but I am assuming your submission is 8 years, I am regarding your submission as 8 years life, that is really what you are saying now.

THE CHAIRMAN: From now.

MR. FRAWLEY: Yes, 8 years from now.

A Well if it came to 1946?

Q Yes.

A And there was still oil coming over the pipeline and possibilities of it coming over for the next 10 years, then you could not ask for a rate to amortize over that period beyond 1946.

Q Yes.

THE CHAIRMAN: He says it would then be reduced to a plain carrying charge.

WITNESS: Yes.

Q MR. FRAWLEY: Yes, then it would be reduced to a plain carrying charge?

A Yes.

Q No more amortization?

A Yes.

Q And the only result is that it would have been kind of hard on the people who had had their oil carried during the intervening 8 years?

A Yes, that is it.

Q THE CHAIRMAN: He says it would be hard on the company if there was no oil after 8 years.

A Yes, that is right.

Q And amortized on a basis of 16 years?

A That is right.

Q MR. FRAWLEY: That is right, but I just put it to you in my way, even to me it is a pretty obvious result and I need not press it perhaps. Now, Mr. Taylor, dealing with the rate of return you have given us your best judgment, you have given your best judgment to the Commission, you have given to the Commission in your best judgment the rate of return should be 20%?

A That is so.

Q And you have detailed certain hazards, I am wondering if you have given due effects to the problem which confronts the Commission in the submission of some of us, that the life of the field is the first thing to ascertain, I say I wonder if you have given effect to that because the fact is, Mr. Taylor, that if the Commission, be it right or be it wrong, and the Commission is only fallible like the rest of us, but if the Commission does arrive at a figure, be it 10 years or be it 20 years, as the life of the field, or be it 30 years, as the life of the field, if the Commission does arrive at that figure in its own mind then you will agree that that then becomes, for the purposes of the Commissions' further

reasons and calculations, that becomes a fixed thing, a fact, does it not?

A Yes, that is so.

Q Right. Then that being so, does not the hazard go out pretty well?

A If the Commission should decide on 20 years as the life of the field.

Q Any amount.

A They will consider, they will have considered the hazard less onerous than I do, that is the only result.

Q Yes, I do not say 20 years, supposing the Commission arrives at 5 years, any amount, but that has been fixed then and done with and put behind them?

A Yes.

Q And they say for our purposes we are going to assume that the oil is going to go through that pipeline for that period of years which we have fixed.

THE CHAIRMAN: At least.

A Yes.

Q At least, and that is on the safe side, now that being so, accepting that, does not the hazard go out of the investment?

A Yes, and as between, whether they choose 5 years or 15 years, that would be the measure, the degree of which the hazard goes out.

Q I do not know whether I follow you or not. The Commission has here a task, because, they have a series of tasks in front of them, one man said 36 years and then we had it from there all the way down to, well I do not like to say 2 or 3, because there seems to be some question about that, these people did not profess to venture an opinion about all of it, it went down from 36, it came all the way down to say 10,

now the Commission in its best judgment makes up its mind somewhere in there is the life of the field so far as they are concerned?

A Yes.

Q Now having done that, there is no question that all the hazard , not more or less of it, but all the hazard goes out, does it not?

A The Commission would value the hazard in choosing the number of years.

Q In choosing the number of years?

A Yes.

Q And a lot of calculations may come into that, and they finally arrive at say for argument 15 years, 4 years?

A That may be.

Q Any number of years?

A Yes.

Q Then doesn't it follow that this suggestion you have been making to us about hazards become of fairly minor importance?

A As I say the Commission will have valued the hazard and the hazard disappears altogether.

Q Correct, and so we go to the estimates that have been made and we can pick out any year that we may want to, but presuming for the sake of argument or our questions, that the year is fixed, and then we can soon see how much profit a given rate of return returns to the company?

A Yes, that is right, after the period of time has been made and the information on these statements, is it number "110", will enable the Commission to do that.

Q Yes, that is true, so assuming that the Commission feels

arrive at some life of the field, then it perhaps is not necessary that it should have any great regard to the hazards to which you have called attention?

A That is assuming that the Commission takes into consideration the hazards that I enumerated as having been considered in my view, as to how soon I can get my capital back and what rate of return I should get.

Q Yes, and I want to discuss those with you and I am not unmindful of the hazards you have listed here, you have had regard to those hazards, because you did not, you did not attempt to take each hazard by arriving at the life of the field, that is true is it not?

A That is right.

Q So not having taken each hazard by arriving at the life of the field, then you have gone into such things as "crop risks" and so on?

A That is true.

Q Now, Mr. Taylor, I say this with every respect, some of the opinions, some of the hazard which you took into account---

A THE CHAIRMAN: Is the crop risk related in any way to the life of the field?

MR. FRAWLEY: No, I quite realize these other things and I want to discuss that with him.

Q MR. FRAWLEY: I say again with respect some of the matters you have taken into account---

THE CHAIRMAN: This is a wearisome business, Mr. Taylor, would you like an adjournment or not?

A No, I would just as soon go on.

THE CHAIRMAN: Quite.

Q MR. FRAWLEY: Do you agree that some of the fields into which you went in discussing hazards were really

[illegible]

the business of engineers, petroleum engineers, I called your attention to one matter, you mentioned the possibility of shallow fields coming in and what might result from that?

A Yes, just using my judgment as a business man and not pretending---

Q To be a petroleum engineer?

A A petroleum engineer.

Q And I presume you would have some regard or did you have regard, when advancing that as a hazard, to the opinion of engineers that deeper fields continue to be diilled after shallow fields came in?

A I did not study the picture of that feature. I just considered the hazard from the point of view, for one thing the possibility of having to duplicate your capital and the other matters which I have mentioned in my evidence.

Q Yes, but those are the things as I took them down, "getting no oil", was the first one, "the possibility of shallow fields coming in", "competitive pipelines", and the "crop risk" those are the four things?

A Yes.

Q Did you give more or less importance to anyone of those things?

A I didn't measure them in any mathematical way.

Q No, now the possibility of getting no oil, do you mean by that, getting no oil out of these, out of the undrilled part of the field. My note was very brief. I simply have your "getting no oil", did you mean getting no oil from the part of the field which is not drilled?

A I did not consider any part of the field, whether drilled or not drilled. I merely took what I considered was an overall reason of all these matters.

Q Yes, but that again I suppose you would agree is something, and mind you I say it with every respect, is something that a petroleum engineer is better able to see to?

A Oh yes, no doubt about that.

Q And then the next one is "competitive pipelines", that might be built?

A Yes,

Q In that regard I presume you were aware, I discussed it with you yesterday, that to all intents and purposes, this Royalite Pipeline is now a public utility, is it not?

A I would just, I take your submission that it was.

(Go to Page 2999)

Q Yes, that is fair enough, if you assume with me and to the extent that I am right or wrong will be disclosed by a proper reading of the Statute, but if it is now, for practical purposes, a public utility, then I presume there will be some regard given to the regulatory body, to the possibility of further pipelines being built, and what that would mean to the through-put of this pipeline?

A Yes, I have no doubt that these things will be taken into consideration.

Q I mean it is not just a case of anybody being permitted to build a pipeline anywhere he likes, and take all the through-put that is now going through this pipeline that we are so anxious to fix a rate for?

A I suppose there might be a franchise in that case.

Q Yes, something similar to a franchise. Now, with respect to crop risks, that is something that is very problematical, you have never studied the relationship, I suppose, between fluctuation in crops as compared to fluctuation in sales of petroleum products?

A No, I have not made any study of that, just in a general business way, I know that in a poor crop year there will be less gasoline and less petroleum products used.

Q You think it should, that should follow, should it not?

A It should follow, and I would take it that it must follow.

Q Yes?

A Because there is less petroleum products required for the harvest and so on.

Q And sometimes, I do not know whether you took this into account or not, sometimes they have a poor crop area in one section and then a much heavier crop in another area?

A Oh, yes, there would be that all the way down the line.

Q And the consumption of petroleum products would balance itself between that good and that bad area?

A It might.

Q But over and above all that, Mr. Taylor, over and above all that, I wonder if you have taken into account the probability that if something happened to the through-put, and the through-put really went materially down, that that could be dealt with by an application to the rate-making body to make an adjustment in the rate?

A I presume that could be taken care of from time to time.

Q And if that could be taken care of then it becomes of less importance and less moment to the present Commissio fixing the rate for now, that follows, I suppose?

A Yes, providing this, accepting your statement that this is going to be considered as a public utility.

Q Yes, assuming that from now on there will be a continuou jurisdiction?

A Yes.

Q Over it by some rate-making body?

A That is right.

Q Then, perhaps, there is just one further question, if you made that assumption with me, then, that there was to be a continued supervision and rate-making power of a regulatory body, then that would necessarily reduce the need for a large return at the present time?

A Yes, it would reduce the rate.

Q MR. FRAWLEY: You would not want to venture a figure which you would be willing to come down to from your 20% would you?

A No, I would not offhand.

Q You just feel that it is quite proper to qualify your 20% in that respect?

A Yes.

MR. FRAWLEY: I think, Sir, that is all I want to ask. That is all thank you, Mr. Taylor.

MR. NOLAN: I have nothing else, Sir. There were some calculations, Sir, that Mr. Taylor agreed to provide. I wonder, with the permission of this Commission, if these calculations, which will in fact be made by somebody else, if they could be put in by somebody else, Sir?

THE CHAIRMAN: Before you proceed, Major Lipsett wants to ask something.

Q MR. COMMISSIONER LIPSETT: Mr. Taylor, if you would take your Exhibit "114"?

A Yes sir.

Q You have us the original capital that was put in by the Royalite Company into this Department as $152,369.84.

A That is correct.

Q Now in addition to that sum, as I gather, you put in in the years 1926 and 1927 and 1928 the three items in red type in the column, "add profit".

A No, that is the gross and the balance. What we put in the first year was $152,000.00, and then we put in $10,000.00 which brought it to $162,000.00 and then $41,000.00 bringing it to $203,000.00. That figure is a cumulative figure, Sir. The figure on the outside

right hand column. That is the balance available. That is to say we start off with $152,000.00 at the beginning of 1926 and by our accumulation of profits and by spending a certain amount we now have $162,000.00. So what we have really put in in that year is $10,000.00.

Q Does that mean you put in $10,000.00 in cash as well as making up the losses of $6700.00 in the Profit column?

A You consider you are going to recover your loss. You are going to recover your loss and taking the recovery of your loss into consideration you have recovered your loss and you have $10,000.00 roughly more than you had at the beginning of the year.

Q Is that $10,000.00 more that you have in in the year 1927?

A No, 1926.

Q 1926 you have $10,000.00 more than you have in 1925?

A Put in, yes sir.

Q That was put in in cash?

A Yes, that was put in in cash, that is these figures, these red figures on the outside column as long as they are red, they represent the balance at that date of capital supplied by the Company. The balance at that date. Now the amount put in each year. If you wish to calculate the amount put in you merely take

1929 amount from the 1930 amount. Those two figures are 1929 amount is $425,176.92 and the 1928 amoun is $305,931.31.

Q Yes.

A So that in the year 1929 there was $120,000.00 of

additional new Company capital put in.

Q Put in?

A Yes sir.

Q Was that after allowing for $159,000.00 of profit?

A Yes sir. That is taking in first a contribution from the profits, the actual profits for the year.

Q What I was trying to get at is, in that particular year did they put in $120,000.00 plus $159,000.00 of profit. Is that correct?

A No sir, that is not correct. We put in $120,000.00. The profit, that assumes we used up all the profit. But as you will notice there was spent $302,000.00 in Fixed Assets in that year. So that we used up our profit and have to put $120,000.00 more of Company money in.

Q In addition to the profits?

A In addition to the profits.

Q That is what I was putting to you?

A Yes sir, that is right.

Q Then in the next year, 1930, you reduced the money put in by the profits of that year, is that it?

A Yes sir, after meeting your capital additions you reduce your Company money by roughly $200,000.00.

Q They got that much back in other words?

A Yes. The investment of Company funds was reduced by that much.

Q Then in the next year they got back some more and by 1932, I think you gave us this already, they had all their money back and had $51,586.98 of profit?

A Yes.

Q Of accumulated profit?

A Accumulated profit, yes.

Q I think I have that clear. Well, perhaps it may be made more clear, Mr. Taylor, if you can give us a little separate statement of what went in each year, commencing with this $152,369.00?

A Yes, that can be very readily done.

Q And it would look as if at one time they had actual cash put in amounting to $425,176.00?

A That was the highest point.

Q Perhaps a little statement that we could have to look over afterwards would clear that up?

A Yes, we can do that very readily.

Q Now, Mr. Taylor, I wanted to ask you a little more on this question of hazards. I take it when you come to the year 1935 or 1936, say, there was not much hazard as far as the earlier investment was concerned?

A No, that had all been recovered.

Q That hazard had gone. I wanted to ask you about the hazard in connection with this new investment that was made, I think, in 1937 and 1938, the new pipe line?

A Yes sir.

Q Now what do you say the real hazard was in putting up that money in those two years and what was the extent of the total hazard? What I am putting to you.....

A Well the hazard to my mind is as to the length of time the production which came in 1937 and 1938, the length of time that will continue. That is the hazard I think.

Q What I would like to get at is, how real is that hazard, on the 1st of January 1937, according to your figures

they had $507,270.00 in the bank?

A That is right.

Q And by September 1938 they had all this new capital outlay?

A Yes.

Q Expended, but their capital in the bank was reduced by less than $100,000.00, $97,000.00 only?

A Yes.

Q Wasn't the only hazard that they ran in this entire investment that $97,000.00?

A No sir, I would not say that. As a matter of fact the cash balance as we discussed this morning is practically spoken for by the amortization. That being so we have no current money out of which we could pay dividends for instance.

Q Is that correct? Their cash position, after this entire capital investment down to September 1938, the entire investment in the years 1937 and 1938, the entire investment had only resulted in the cash position being $97,000.00 worse?

A From $507,000.00 to $410,000.00, yes, $97,000.00.

Q And as against that $97,000.00 they have this $800,000.00 or $900,000.00 of new property?

A Yes, that is so, sir.

Q Would you not think under those - subject to anything you may tell us, would you think that the hazard was anything that one might talk much about?

A Well I would consider that all of the direct assets were under a hazard. $1,465,000.00.

Q But of that total $800,000.00 or $900,000.00 was put in in these 18 months?

A In 1937 and 1938, yes sir.

Q Now just look at the position then both from the revenue point of view and from their through put. In your Exhibit "100C" the entire through put in 1936 was 807,000 barrels approximately?

A In 1936.

Q 1936. ~~Tanek~~ Take your Exhibit "100C, C-8?

A 827,248. That was the 1936 through put.

Q Now by getting in this pipe line, this capital expenditure, they increased that average daily during 1937 to 2,431,000 odd barrels?

A In 1937, yes.

Q Or they increased their through put three times really, practically?

A Yes sir.

Q And when one looks at your Exhibit "113", when they were doing that, they increased their daily revenue from $552.00, being Exhibit "113"?

A Yes.

Q They increased their daily revenue, from the October figure of 1936 of $552.00 per day to $1,664.00 per day, at the 1st of September 1937, when this actual work was going on?

A That is up to January 4th, 1938.

Q Yes. And from that on they increased it to $2,472.00 per day?

A Yes.

Q I just want your opinion of this, is the real fact that they were getting their revenue almost day by day to pay the money up on the capital expenditures?

A The hazard I take it then, is as to how long that will

last.

Q In the meantime up to September 1938 you have got this whole capital expenditure back, excepting $100,000.00?

A Yes sir, that is so.

Q And they have got a property which was originally worth $152,000.00 or thereabouts and which you now say is worth something around $1,800,000.00?

A A million and a half.

Q And do you really say there is much hazard in view of those facts?

A As I see it from the point of view of making any return on the investment, any cash return, and it is a fact that the Royalite Oil Company has neem paying dividends over these years, and having regard to the fact that $410,000.00 they received as a balance, is spoken for by the amortization fund, and if we considered it was laid aside for amortization, there is really, you might say, no cash balance out of which dividends might have been paid during those 13 years.

Q But leaving out that cash altogether, would this be putting it unfairly to you, if I put it to you that the customers of this pipe line, of whom the Royalite themselves were one for a precentage - that the customers of this pipe line in fact during 1937 and 1938, actually put up the who capital money or approximately the whole capital money less this $97,000.00, of which the Royalite Company have got the benefit in this available asset?

A Yes, that would be a proper submission.

Q But would that be fair? I am asking for information, I am not expressing an opinion, Mr. Taylor. I would like

to have your view about that?

A Well they get the Fixed Assets.

Q The Royalite Company?

A Yes, the Royalite Oil Company got the Fixed Assets, the pipe line or whatever is represented in that expenditure.

Q Yes?

A They did not get anything on which they could pay dividends. They did get the moneys worth in the pipe line.

Q They have the pipe line?

A Yes. And whatever risk there now is, whatever hazard there now is in the pipe line, that amount is at that risk, whatever it is. In other words.....

Q As to whether they can get the benefit from it over all time?

A That is the way I view it Sir.

Q But as far as any possibility of loss is concerned, largely the only thing they could lose would be something that the consumers of the line had put up for them during the years 1937 and 1938, without any real risk to themselves at all?

A That is right.

Q In view of that, Mr. Taylor, is it fair to say, or is it asking too much to say that they should not get 20% for all time on that money which in reality was supplied by the consumers and the customers. Or should we not take that into consideration?

A No. I think the question of those profits having been made and been invested in Fixed Assets is a thing of the past. And have a new, entirely new situation.

Q If you take that view is it not a question they have

really, as far as they are concerned, a gilt-edged investment because they have had their money out before they spent it, or during the time they were spending it, during those two years, with the exception, shall we add, of that $97,000.00?

A Yes, that is perfectly so. But the way I view this situation is that if one looks at it from a cold hard cash point of view, the Company has a balance of $410,000.00 that it took out of its profits, that is the figure you see there?

Q Yes?

A All of which was spoken for by the amortization reserve. So that if you consider it that way, whereas the Company got one million and five hundred or six hundred thousand dollars worth of assets which are reinvested in the business, they did not get any real moneys out of it with which they could, for instance, have paid dividends. They either get their amortization or they get funds out of which to pay dividends. The measure of how much they got in that regard is $410,000.00 over this period of 13 years. So that there is nothing come out of the pipe line in the way of - basing it on these figures - out of which the Company could have paid dividends, unless they paid it out of the funds that were spoken for by their amortization reserve. They might do that, and they would either have no amortization and some dividend income, or some dividend income and no amortization. I look at these two as being one, one might say. It depends on how you want to consider them whether you are getting your amortization back or whether you are getting a

8-8

It is commonly said that the ... in this country the number ...

... in the fields, they did not ...

... they stayed ...

Commonly not one million are ...

thousands ...

in the fields, they did not ...

dividend.

Q You cannot get both out of this sum?

A No. That is the submission I make.

Q Is the true picture that in 1937 and 1938, owing to the fortuitous position in which they were, that they were able to get their busines increased from roughly 800,000 barrels per year to 4½ million barrels per year going through your pipe line, with money actually put up at the rate the consumer was paying during those two years?

A That is so, Sir. Can I follow that up by saying that the measure of the actual money they got back they could have spent, - as a matter of fact they got back no money in that period that they could have spent, because the balance at the end of 1936 was $507,000.00 and they end up with $410,000.00, so that....

Q They were $97,000.00 worse off in their current cash position?

A Yes.

Q And for that $97,000.00 that they have put up the customers of this line have put up the balance of the capital which is roughly around $800,000.00?

A And that $800,000.00 has been reinvested in the plant. There is no cash from which we can pay dividends or put in our amortization reserve.

Q Would it be fair to put it to you in this way that there has been a new capital outlay of $900,000.00 of $1,000,000.00 made in the last two years, of which the Royalite has put up under $100,000.00 and the consumers have put up the other $800,000.00 or

$900,000.00, or the other 80% or 90%?

A Yes, that is what the figures show. That is the proper deduction from these figures.

Q Then in coming to fix a rate which we will try to make equitable to everybody for the future, should we not have some regard to that actuality?

A No, I would say that is past and gone with. That would be my submission. That whatever happened in the years that this Company went on its own free will and it made these profits, that they are theirs by right, by legal right, and I do not think that they can be taken from them and should be considered in the basing of the rate for the future.

Q Even if we were satisfied that the true position was that 90% of the new pipe lines were built by the customers and only 10% by Royalite, we should still give all the profits of the future to Royalite and nothing to the people who put up in fact 90% of the money?

A That is the principle on which I would look at it, regardless of the amount, that it should not be taken into consideration.

Q You may be quite right. I am not saying you are not. But it is a little startling to an outsider.

Q MR. FRAWLEY: If I agree with you that the past profits were a thing of the past and they cannot be brought in now, in the sense you are putting, to reduce the rate of return upon them and the amortization charge upon them and so on, as you have translated them into assets, if I agree with you to that extent, won't you come some distance with

me along the other line that probably the Commission when it comes to consider the rate of return, and they are considering a rate of from 20 all the way down to $8\frac{1}{2}$, and perhaps below that, that they might show a little lack of generosity in the rate which they give you, having in mind the huge profits which you made in the past?

A That would be exactly the same. That would be contrary to the opinion I have now expressed,

Q There would be no difference to you?

A No, no difference at all. That would be just taking them into consideration in another way.

Q MR. COMMISSIONER LIPSETT: Let me pursue this further, Mr. Taylor. Supposing that we were satisfied that we could not regard past profits in fixing the rate, would we be entitled to look at the true position that this money was only put up, 10% by your people and 90% by the others, as showing us that there was no real hazard, in fact that in the future you were going to get paid a return of 8 or 9 times the capital you had actually put in?

A I would consider whatever way we take them into consideration, whether as measuring the hazard or whatever way you take them in, that it does not alter the fact that they are being taken consideration of and in my ioinion that would not be right.

Q Would the correct position be that today you have not only no hazards, and not only a gilt-edged investment, but an investment in which your capital has all in fact been returned to you, in fixing the rate?

A That goes back to the same thing, the return on

your capital. I look on the situation as whatever profits were made and wherever they went, whether to capital assets or whether it is money in the bank, that it should not be taken into consideration in any way, either in measuring the hazard or in any other way.

Q Should the fact be taken into consideration that this Company had a virtual monopoly in the transportation of oil from the field by reason of this pipe line, and that by that means they were able to secure their capital and make this new gilt-edged investment as far as any outlay is concerned - on what basis could you justify the hazardous return of 20% or anything like it?

A Well I think I agreed with you, Mr. Commissioner, that as you get rid of the hazards that the return you would expect would come down. I mean I think I agreed with you that the 20% would be scaled down if all the hazards were taken out, and taken into consideration in fixing a rate base.

Q It almost looks - perhaps you would give us an opinion- it looks as if you have an investment that is safer than Dominion Bonds, because you have your money out, practically all, before you spend it?

A That all works back to the point, whatever way you consider it, whether in setting a rate which takes cognizance of the lesser hazard, or in whatever way you consider it, it would not in my mind change the principle, that in my opinion they should not be taken cognizance of anyway, in whatever manner it was done.

Q I would like to ask you one more question and then I am finished. The picture as you have it now, what would you say would be a fair income return to suggest to the Commission on whatever we find the actual capital to be?

A I would not wish to make an offhand representation as to that, Mr.Commissioner.

Q Would you care to give us your considered opinion as distinguished from this figure you gave in your Report? Just think it over and let us know in the morning?

A Yes, I can do that.

MR.NOLAN: I was so anxious Mr. Taylor would be allowed to go tonight, and we kept on in that hope. The calculations that are going to be made can be made by somebody else, and can be brought in. They would be made by somebody else in any event, and an accountant will be made available to present them, and be subject to any cross-examination there may be.

A Mr. Nolan, I would like to wait until tomorrow in any case.

MR. FRAWLEY: You cannot get back to business until Monday morning, and waiting until tomorrow would do the same thing?

A Yes, I would like to wait over until tomorrow.

(At this stage the Hearing was adjourned until 10.30 A.M. 27th January, 1939).

....

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta JANUARY 27th, 1939

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EXHIBITS

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27th January, 1939.
10:30 A.M. Session.

MR. FRAWLEY: Mr. Nolan has asked me to call Mr. Maw now.

MR. NOLAN: There are certain points here which have arisen, for example the $52,269.66 and I thought this might be a convenient time to have these explanations made.

MR. FRAWLEY: Before Mr. Maw gives evidence, Mr. Chairman, Mr. Morrison the other day referred to just one paragraph in a report, in an order of the Board of Public Utilities' Commissioners. I said at that time I would file it and I would like to file it now. It is the certified copy of the order of the Board which Mr. Morrison referred to by number and quoted a paragraph from it. It is order number 6327, dated the 20th of July, 1931 and the paragraph that Mr. Morrison, it is certified to be a true copy by the secretary and the imprint of the Board's Seal is on it, and Mr. Morrison referred to a paragraph which appears at the bottom of page 16 and the top of page 17, two paragraphs really, under the sub-title of "rate of return".

(CERTIFIED COPY OF ORDER OF THE BOARD OF UTILITIES HERE MARKED AS EXHIBIT "117").

ARTHUR MAW, having been recalled, examined by Mr. Nolan said:

MR. NOLAN: Mr. Maw has been sworn and qualified?

MR. FRAWLEY: Yes, he has been sworn but I think not qualified.

Q MR. NOLAN: You are a chartered accountant, Mr. Maw?

A Yes.

Q Where did you serve your articles?

A In Manchester.

Q And where were you admitted to the standing of a Chartered Accountant?

A I was admitted to the English Institute, the Institute of Chartered Accountants in England and Wales in 1925.

Q Yes.

A The Alberta Institute in 1937.

Q Your standing in England would give you admission to the Alberta Institute or would it?

A That is right.

Q And you have been practising here in Calgary with the firm of Price, Waterhouse and Company?

A I have been employed by them.

Q For how many years?

A Since 1930.

Q Now Mr. Maw on page 3 of the report of Price, Waterhouse and Company being Exhibit "100", there is a discussion about the cash basis and what has been put in and taken out in respect of certain items of money, an item of $56,269.66 have you that page of the report?

A Yes.

Q And the statement is "The application of this cash basis also had the effect of adding $56,269.66 to the capital assets as shown by the books over the period from 1925 to 1938", then in the course of the discussion before the Commission some question was raised as to what this amount comprised, because we have treated it rather lightly, and it is a large amount of money, 56 thousand odd dollars, now you know about that, Mr. Maw?

A Yes, I do.

Q Would you be good enough to give to the Commission an explanation of that item and if you can how it is made up?

A Yes. I have not made up a detailed list of the items comprising this item of $56,269.66 because I think when I have attempted to explain to you how it is made up it will be apparent that the detailed list of items comprising it would not only be very very lengthy but it would not be of any more material assistance than the explanation of the item in total. However if the Commission finds it necessary to get complete details of all items making it up it can be got in a matter of perhaps two or three weeks.

Q Why is it so difficult, Mr. Maw?

A Well the reason is this, that as we state here on pages 2 and 3 of the report, the investment in capital assets is arrived at on the basis of the dollar value put into the business year by year less the dollar value recovered on the retirement of capital assets year by year. Now that means that our presentation of the cash invested in capital assets is on a different basis from the, from Mr. Morrison's presentation, right from 1925 to 1938 and it is also, it also results in a different figure from what the books of the company show now, although in arriving at our figures we have of course taken the figures which have appeared in the books during this period. The main reason for the 56 thousand difference and in speaking of the 56 thousand I would prefer to speak of the whole difference, that is the $56,269.66, plus the difference of $102,402.42 which represents the 6-inch loop.

Q Which is being the difference between $178,885.02 and $76,482.60?

A That is how the 102 thousand is made up.

Q Yes.

A The difference of 102 thousand and the 56 thousand is $158,782.08 and that is the difference between the capital assets as shown by Mr. Morrison at September 30th, 1938, $1,306,368.48 and the amount of $1,465,150.56 shown by us as the cash investment in capital assets and this difference of 158 thousand is really composed of two differences, there is the difference in value of assets brought in and, that is one difference which I will try and explain, and the other difference is a difference in value of assets removed. In Mr. Morrison's presentation of the fixed assets he has taken the assets as they now appear in the books with the addition that he has added to them those assets which were fully depreciated by the company but which are still in use and being still in use he has added them back and applied his own various rates of depreciation or amortization to them since the time when they were first acquired. Otherwise, his statement of the assets is in accordance with the books as I think is noted on Mr. Morrison's Exhibit.

Q In his report?

A In his report.

Q That would be Exhibit "88", where is it noted in Mr. Morrison's report, do you remember?

A Yes, I think it is 23, on page 23 of ---

Q Exhibit "88"?

A Of Mr. Morrison's report, he shows capital assets $1,306,368.48 that is direct pipeline assets and a note at the bottom of the Exhibit "In the books of the company at 30th September, 1938 the net value of the pipeline assets is $1,166,197.25, which is the above amount of $1,306,368.48 less depreciation written off amounting to $140,171.23." Our own presentation of the capital assets can only be tied up with the company's books by referring to the amount which Mr. Morrison has there shown

$1,306,368.48 and the difference of 158 thousand which I am now trying to explain.

Q Well are you saying the difference between you in the value of the capital assets rests very largely on this figure of $158,000?

A That is the difference.

Q And the only difference?

A The only difference.

Q Yes, all right.

A And I said that difference consisted of two differences; in the figures as shown in the books when an asset is transferred to the pipeline department from another department under the system which the company is using at present, that asset is transferred in its original cost and the depreciation reserve which has been accumulated on it is transferred to the depreciation reserve belonging to the pipeline department's assets. In other words for a concrete example, if a pump of which the original cost we will say was $5,000, was transferred from some other department to the pipeline department and became a pipeline asset and this pump had been in use in another department for a sufficient time during which it had acquired a depreciation reserve we will say of $2,000, when that pump is transferred to the pipeline department and becomes a pipeline asset it will appear in Mr. Morrison's presentation at its original cost of $5,000, but in our presentation it will not, it will appear at its net value of $3,000, that is $5,000 less $2,000, that being in our opinion the cash value at which the pipeline department acquired it. Then we will suppose that this same pump remains in the pipeline department for say two years and is then transferred out again say to the scrubbing plant. In Mr. Morrison's presentation the $5,000 at which it came in is then completely removed

and he will also remove from his depreciation reserve or amortization reserve an amount equivalent to the reserve on the pump.

Q The accumulated reserve?

A The accumulated reserve, but in our presentation we would not do that. The pump had come in to us at a net value of $3,000. We had had it say about two years and during that time an additional depreciation would accrue on it and by the time it left the pipeline department it would only have a net value of about say $2,000 or $2,500. In other words during the time that it has been in the pipeline department from our point of view, its cash value has decreased by we will say $500 due to the depreciation which has accrued on it and the way in which we have handled that is this, that when it was removed from the pipeline assets we have credited to the investment the cash value at which it was removed, thereby leaving in our presentation a cash investment difference between the value at which we acquired it and the value at which we sold it and that difference has been amortized over the remaining life of the field, or the life of the field, I mean the remaining period either 5, 10, 15, 20, or 25 years as shown on the various Exhibits which we have put in. Now the effect of transactions similar to that and also of transactions where the asset was actually sold for cash, not necessarily transferred to another department but was sold for cash, has made this net difference of 158 thousand and some odd over the period and I made a calculation to find out to what extent the 158 thousand consists of assets removed and to what extent it was an adjustment of the purchase price of assets still in use, that was necessary because in the statements in which we leave the salvage value on the assets it would quite obviously be impossible

for us to leave the salvage value of a cash investment which is no longer represented by physical assets, for instance the 6-inch loop. There is no salvage in the $100,000 of cash loss, which we took on that, so in preparing the statements on a salvage value basis I amortized 100% that part of the capital investment which is no longer represented by physical assets and to 90 or 95% as the case may be, that part of the investment which consists of assets still in use. The effect of that was in round figures this $158,000, consisting approximately of $50,000 less the cost of assets still in use and $200,000 cash investment no longer represented by physical assets, but perhaps I am not making myself very clear. The reason why it would be hard to give you a complete break down of the $56,000 is that over this long period with transfers in and transfers out, all on a cash basis rather than on an original cost basis, the item is, as is readily apparent, made up of a very large number of small items. I do not think that a detailed list of them would really be of value to you but we do know that in the case of the 6-inch loop our total difference of $156,000 is accounted for to the extent of 102 thousand and some odd dollars by the 6-inch loop alone and in that connection I would like to go a little further, on the basis of Mr. Morrison's presentation of the investment in capital assets he would, in 1932, when the 6-inch loop was removed, he would charge to operations in that year the loss of the 6-inch loop and the loss would have been approximately as follows, - I have a calculation on the basis of our own 8 year presentation so it will be a little bit different in 5, 10, 15, 20 and 25 years, but the effect is much the same, in 1932 the asset of $178,885.02 would be removed from the capital investment and the depreciation or amortization

A.Maw

reserve on it, which had been built up between 1929 and 1932, would be removed from the reserve and the difference between the cost of the assets less the amortization reserve and the recovery value would have been charged to profit and loss in that year. Now in round figures I find, and I believe it has been given in evidence, that the average annual charge for amortization in our presentation was a little over 5% to 1938. We will assume, therefore, that this asset had been in use for about 2½ years, that I think is approximately the period and had been amortized at an average rate of about 5% per annum, it would have acquired an amortization reserve of 12½% in two and a half years, which again in rough figures is $22,300, so that it would stand in our books at a net value at that time of $156,585.00.

(Go to page 3023)

A And the recovery value of which was $76,482.00 leaving a loss of $80,103.00 in 1932. That, in round figures, is as it would have appeared in Mr. Morrison's presentation had he made one for 1932, and if, sir, you will refer to Exhibit c-2 of our Exhibit "100", the Statement of Operations for the year ending December 31st, 1932, on which we have arrived at the profits from transportation before providing for Income Taxes of $69,014.41, if we deduct from that the $80,000.00 of loss on the 6 inch loop, we would have a loss of $11,000.00 odd for the year, and there would have been no return on the investment in pipe line assets at all in 1932, which, of course, would have had an effect on the average rate of return of 23.80% which we show as the rate of return for the period of 7 years and 9 months on our Exhibit A of Exhibit "100".

Q MR. NOLAN: So far as the $56,000.00 item is concerned, it can be run down and the items which brought it can be traced as to when they came in and when they went out, and that is susceptible of explanation, is it not?

A That is correct.

Q But it would take some time?

A It would take a very long time.

Q MR. COMMISSIONER LIPSETT: How was it arrived at, Mr. Maw, without taking down the items?,

A It was arrived at by this - do you mean how did we arrive at.....

Q MR. NOLAN: The $56,000.00. How do you know it was $56,000.00?

A Our difference of $56,000.00 as I said is the $158,782.08, less the $102,000.00 odd which we can directly attribute to the 6 inch loop and our difference of $158,782.08 was arrived at by deducting the amount shown by Mr. Morrison of $1,030,000.00 from the amount of $1,465,000.00. That is to say that is the difference. But the reason why it is the difference, of course, is because our calculations come to $1,465,000.00.

Q Yes?

A And I can explain the difference this way by saying how we arrived at the $1,465,000.00. We did that by analyzing all the entries in the asset account....

Q MR. COMMISSIONER LIPSETT: On what page was that $1,465,000.00?

A That does not appear on Exhibit "100". But on Exhibit "100", the top figure in the September 30th, 1938 column.

Q MR. NOLAN: That would be Exhibit C-8?

A No, Exhibit A.

Q Oh yes, in Exhibit A?

A That $1,227,000.00.

Q MR. COMMISSIONER LIPSETT: Just a moment, Exhibit A you say?

A Exhibit A of "100". In the September 30th, 1938, column, $1,227,320.41, investment in trunk lines, gathering lines and other direct capital assets, and the note at the bottom of the same page "The investment shown above as at the end of each period represents the balance at the beginning of the period plus one-half the additions for the period." So that if we add the $1,227,320.41 and half the additions during the 9 months to September,

[illegible]

30th, 1938, we will arrive at $1,465,150.56, that I think I have shown on Exhibit "114".

Q MR. NOLAN: Yes, that is right.

THE CHAIRMAN: I do not quite follow you. To make this calculation you must take Mr. Morrison's figure must you?

A No, I am afraid I have not quite finished my explanation of how I arrive at the $1,465,000.00. I analyzed all the entries in the asset accounts from 1925 to 1938, and converted them to a cash basis by - in the case of, say the sale of an asset substituting the cash value of the sale for the original cost value, and in the case of transfers in, which appeared in the books at the full original cost I substituted for those the net cash value at the time at which they went in, and the result of those calculations gave me the figure of $1,465,150.56. In other words I had converted the investment in direct assets as shown on the books to a cash investment in direct assets. My figure of $1,465,150.56 represents the total cash spent less the total cash recovered on purchases and sales of capital assets. When I say cash I assume the net value at which the asset is transferred from another department to be its cash value.

Q MR. NOLAN: Less those cash sales. You said $1,465,000.00 less the cash sales?

A No, that is after deducting.....

Q After the cash sales have been deducted?

A Yes.

Q Or credited as the case may be. Well I do not quite follow yet where you find your difference of $56,000.00?

A The total difference between my cash investment in fixed assets and Mr. Morrison's investment, which he has reconciled with the books.

Q Yes?

A Is $158,782.08.

Q Yes, that is from the books Mr. Morrison took that?

A Yes. After adjusting that by putting back assets fully depreciated in the books which are still in use, such as the original 4 inch line, then you have a difference of $158,782.08, and we know of that difference of $102,402.42 which represents the 6 inch loop.

Q Yes?

A As quoted on page 3 of our Exhibit "100". Therefore the remaining difference of $56,000.00 and some odd dollars is made up of these innumerable small adjustments,

MR. NOLAN: Yes. I wonder if that is clear to Mr. Commissioner Lipsett how he arrived at that?

MR. COMMISSIONER LIPSETT: I do not know that it is. I understand what he is saying. Did you take Mr. Morrison's figures and because they differed by $56,000.00 from yours, Mr. Maw, you in some manner you have not investigated or explained yourself, you seek to charge that, is that right?

A No, that is not the explanation, Major Lipsett. My figure of $1,465,150.56 is a figure which I have arrived at by analyzing the asset account since 1925 and to date, and I have converted all the entries in this account into cash or the equivalent.

Q Yes?

A For presentation. Therefore I know that my $1,465,000.00 is correct, subject to any small mechanical errors which may have been made, and I know that Mr. Morrison's figure of $1,306,000.00 is also correct. But his figure represents only the asset still in use, and mine represents the cash invested in the assets, less the cash taken out whether they are in use or not.

Q I see. Then you can put your finger definitely on the large item of $102,000.00 and you say the other is on the same principle and made up of a large number of small items?

A That is right.

Q MR.NOLAN: To put it another way, the difference between you is $158,000.00 odd dollars of which we have that $102,000.00 which comprises the six inch loop.

MR. COMMISSIONER LIPSETT: One item?

MR. NOLAN: One item. Ergo the $56,000.00 is for other items that have come in and gone out.

A Which we know to be numerous in any case.

Q During the 13 years?

A Yes.

Q This 6 inch loop, for the purposes of this report, in any event, the recovery value of which has been credited to the Investment account?

A That is correct.

Q Do you approve of that method as an accountant, for the purposes of this Commission?

A Yes, I do.

Q Why?

A Because it is by this method that we arrive at in a certain and definite manner the total cash investment

A in capital assets for the whole period during which the operation has been in existence.

Q And that line was taken up of course?

A That line was taken up. But I looked at it this way. $100,000.00 of the shareholders' money is still invested in the pipe line business.

Q Yes. Then supposing the line had not been taken up. Supposing there had been several other lines which are not now in use, what would you do with those for the purposes of this Commission?

A Well, several other lines which are not now in use, but which I take it had been put in with the object of using them.

Q Does it matter what object they were put in with in your opinion?

A Yes, I think it does.

Q What difference does that make?

A If they were put in with the bona fide intention of using them for the purpose of operating the system, and if they were put in prudently and in the best judgment of the management at the time, then I think that was a proper disbursement of the shareholders' money and they should be entitled to consider that their money is still invested in the business, even though the actual physical asset in which it was invested may either be useless today or, as in the case of a 6 inch loop, completely removed.

Q You put your opinion on the basis of what was put in in cash?

A That is right.

Q Into this business?

A That is right.

Q But you qualify that by saying that you must take into consideration whether or not it was a prudent investment?

A Oh I do so, definitely.

Q In other words, you would not expect a rate on moneys that had been dissipated?

A Exactly. Providing, of course, it had not been dissipated unintentionally. By that I mean it must be a bona fide investment, and if it is, and unless you can show very gross negligence and that sort of thing, I think there is no question but that that is cash investment on which the rate should be based.

Q MR. COMMISSIONER LIPSETT: What a reasonable company or a reasonable man would do, I suppose?

A Yes, exactly.

Q THE CHAIRMAN: Mr. Maw, I was just wondering about this over night. Say there is $100,000.00 in this loop, $102,000.00. Leaving for the moment the standpoint of the shareholders whose moneys were invested and thinking as I think we should do in part, of the people who are paying for the service , is it right that they should be paying a return in respect of this $100,000.00 odd invested in a loop that no longer exists as distinguished now from your getting your money back. You have made that investment.. You have made it as a prudent man would, and so you no doubt - I say no doubt, all my views are subject to change hour by hour and day by day - but at the moment it occurs to me that it might be sensible that you should get that money back. But what no one has adverted to, and which struck me as being perhaps right that we should consider whether of

not these people who are using that line should be paying a rate that would give you a return on that, when the asset which it represents has ceased to be?

A I see your point, my Lord.

Q What do you think of it?

A Well I think this, that this is not an Utopian pipe line which we are considering. It is an actual pipe line, and I think if I might answer your question....

Q Surely you would not have pipe lines at all in Utopia.

MR. FRAWLEY: They haven't any accountants there anyway.

A If I might make this comparison, when you travel on the C.P.R., to day you buy a ticket. The price that you pay for the ticket is, I take it, one which is calculated to give the C.P.R., a fair return on its investment.

Q THE CHAIRMAN: Yes, I think so.

A And I think it is very unlikely that they take into consideration all the mistakes and misfortunes which may have happened to them when they were building and operating their line. In other words, they want a return on the money which the shareholders have invested in the C.P.R. In the same way, in this pipe line, the public are looking for a rate on this pipe line, not on the most perfect pipe line in existence, and one which has been put in without any errors, and one which has been....

Q MR. NOLAN: Perfectly managed.

A Perfectly managed, although we have had evidence to show.....

Q THE CHAIRMAN: I do not know that that just touches my point. Perhaps it does. You have two

lines now.

A Three lines, yes.

Q Three lines?

A Yes.

Q All right. Supposing you pulled up two of them, for reasons that seemed to you sufficient, would the public pay a rate on those two that were pulled up? I say the public. We will assume it is the public for the moment. It happens to be a lesser number now but the public are affected in due course. We have three lines. You say "Well it does not seem to us sensible there should be three. We put them down thinking there should be three. But we pull up two of them. Now there is only one. Now you say those who use it must not only pay the amortization, but they must for all time pay a return on the money at a proper rate, which rate is in no wise affected by the circumstances that two lines have ceased to operate and there is but one. Does that appeal to you?

A I see the point.

Q That perhaps is a little different from the C.P.R., tickets?

A I would not like to give a snap judgment on that because there are two distinct interests involved there.

Q Yes, and mark you at the moment we are concerned with these people who are paying as well as those people who are getting the return on their capital invested, hoping to he fair to all?

A That is right.

Q In such recommendation as we may make. But we cannot lose sight of that. It is for you to consider it. If you were

the accountant appearing for the people who are paying the rate how would it appeal to you?

A That is, I think, something which would have to be considered, I would like to have an opportunity of considering it.

Q By all means consider it. I would prefer your considered opinion?

A May I do that?

Q Yes?

A Thank you.

Q MR. NOLAN: This figure of $1,465,000.00 which you gave us a few moments ago as being the cash investment in direct assets is also shown on this Exhibit "114" which was put in evidence. Have you a copy of that in front of you?

THE CHAIRMAN: What is that?

MR. NOLAN: That is the one that showed the cash investment. Exhibit "114"?

A Excuse me one moment, this is the one you asked me to prepare you an additional statement on. I have done that.

Q That is one of my reasons for referring to it, but I simply wanted to show for the moment that the figure you have just given the Commission is the same figure that appears on Exhibit "114"?

A That is correct.

Q And in connection with Exhibit "114" you were asked to make a calculation for the Commission?

A Yes.

Q What was it?

A To show the annual amount invested over and above profits

Arthur Maw,

and amortization to direct assets, or the amount which could annually have been withdrawn, if it is on the same basis as Exhibit "114", without consideration as to whether dividends were paid or not.

Q It could have been withsrawn?

A It could have been withdrawn, providing no dividends were paid.

Q I think that is the point Mr. Commissioner Lipsett made. Have you a calculation of that?

A Yes.

Q Is it in typed form?

A Yes.

STATEMENT IN QUESTION IS NOW MARKED EXHIBIT "118".

Q I wonder if I could go back for a moment to Exhibit "114". That is what one may call a cumulative statement?

A That is correct.

Q Cumulative. You are proposing now to do that on a yearly basis are you?

A That is right. I should explain here that I have also made an additional calculation on Exhibit "118"?

Q Yes.

A I put that in because - I have made this additional calculation there because the question arose several times yesterday, I think, as to what part of the remaining balance of $410,000.00 was available annually and at the same time what part of it should have been set aside for amortization requirements.

Q Now may I interrupt you. Now looking at Exhibit "114", I see the sum of $410,489.08 being the balance available at September 1938?

[illegible]

A Yes.

Q Is that available in cash in the bank?

A Yes. If we stick completely to a cash basis, and, therefore, require no provision for amortization.

Q But if you do require provision for amortization you would require $386,626.00 of those dollars, for the amortization reserve?

A That is correct.

Q Now?

A Now.

Q You can either take it out or leave it in the amortization reserve but you cannot have it both ways.

A That is right. Well no.......

Q THE CHAIRMAN: Is that right? That is a very different picture.

A I perhaps should not have answered that way. The whole $410,000.00 is strictly speaking available......

Q MR. NOLAN: It is in the bank?

A For dividends.

Q It is in the bank we say?

A It is in the bank. But your profits have been suffcient that we would be entitled to disburse your dividends in cash. But if you do it then your amortization reserve is tied up in the assets and if you have distributed the $410,000.00 in cash where are you going to get the money for your next year's capital investment.

THE CHAIRMAN: Oh well, next year.

MR. NOLAN: That is different.

Q MR. COMMISSIONER LIPSETT: That is what I was putting to you, Mr. Maw. You are spending your whole capital

[illegible]

[illegible] Legion [illegible]

[illegible]

[illegible] and [illegible]

[illegible]

out of income, out of the customers practically.

A I cannot quite agree with that viewpoint, Major Lipsett.

Q I would like to have your opinion on that matter, Mr. Maw?

A Where we take Exhibit "114".....

Q THE CHAIRMAN: Before you start that and while this thought is present in my mind. In the ordinary scheme of things when you set up a depreciation account, theoretically at least, the money goes into it, at least each year to the extent of your depreciating. But suppose you depreciate at 10%......

A That goes into the reserve which may or may not stay there. It may during some year be used for another purpose. But theoretically it goes in there.

Q You might buy cars with it or anything?

A Exactly.

Q And theoretically when the period for your amortization has passed you have the full amount of your principle back in that reserve in that bank?

A That is right. It may be in the bank or it may be invested in new assets.

Q Well certainly. You could go to Europe on it too if you want to use it for that purpose?

A Exactly.

Q But the idea of the reserve account is you have all your capital back at the end of the time over which you are amortizing.

A Yes, that is correct.

Q If you take it out and make a new capital investment you

are going to amortize that aren't you?

A Yes. But on Exhibit "114" I have added back in arriving at this balance available, I have added back the provision for amortization. So that my Exhibit "114" shows the profits and the amortization reserve available for investment in new assets and that is the remaining balance available.

MR. NOLAN: That is the point on which I am not very clear.

THE CHAIRMAN: Nor am I.

A I have done the opposite on Exhibit "118". I have provided a further column to show how much cash would have been available providing we had segregated the amortization reserve and left that in the bank.

Q MR. NOLAN: What do you mean when you say you added back the amortization reserve in Exhibit "114"?

A Well amortization is a charge against profit. Profits are after providing for amortization. But amortization does not cost you any cash money.

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So that, from the point of view of cash you have available your profits plus what was deducted from the profits to provide the amortization reserve, so if you add back the amortization reserve to the profits, you have the total cash available.

THE CHAIRMAN: That is two sums then.

Q MR. NOLAN: Let me run that through, in 1926, of Exhibit "114", I have not been quite clear what we do in these figures of that first line, once I thought we added them and then I thought we subtracted them, in 1926 you show a figure of $152,000.00, let us forget the cents and dollars?

A Yes.

Q Then we show an added profit, well, it is not profit, it is a loss?

A In this case it is deduct loss, I am sorry to be confusing again, it begins to be added because that $152,309.00, you see we were already in the red and going further in the red with a loss.

Q Yes?

A So we arrive at a joint red figure on these two combined, about $159,000.00.

Q From which we do what with the $7500.00?

A $7518.00, provision for amortization that year has already been deducted from our profits. In other words, our loss of $6712.00 would have been a profit of $800.00, had there been no amortization charged, but because the amortization is not a cash disbursement we included it and the profits together as the cash available.

Q So to make the picture accurate, you have to add it back, having orignally taken it away?

A Exactly.

Q So you add back the $7500.00?

A That is right.

Q Giving you a total of $159,000.00?

A Yes.

Q Now, on Exhibit "118" you are doing it differently, I understand you?

A I put in this additional column, I started....

Q Just let us go to the beginning of "118" first of all, what is it?

A "Statement Showing Amount of Cash Invested Annually in Direct Assets to the Pipeline Department in Addition to Profits and Amortization Reserves, or the Amount which could have been withdrawn."

Q All right. Now, take the first year?

A In the first year we invested $152,369.84.

Q All right?

A Of assets, those were the assets invested in 1925, we had no profit or loss for that year.

Q Yes?

A In the next year......

Q 1926?

A We invested an additional $9,963.98 in cash, bringing our total investment at that time up to $162,333.82, but we should at that time have in our amortization reserve $7,518.38, so as that money should have been set aside it increased our investment of outside moneys to $169,852.20, and if you will follow that column down, this calculation which I have headed "Remainder Available", it ends up on September 30th, 1938, with $23,863.08, and that is the difference between the $410,489.08 on Exhibit "114" and the amortization reserve of $386,626.00, which, having it available in cash, we had added back, so that on this basis

we have got $23,800.00 of free money in the Bank, and our amortization reserve of $386,626.00.

Q THE CHAIRMAN: And the assets?

A And the assets, and the depreciated assets.

Q Yes?

A I think that, perhaps, that brings me to a point where I can answer Major Lipsett's question as to why I do not consider that the producers or the outsiders concerned had put up 90% of the pipeline, is that the way you put it?

Q MR. NOLAN: Well, it did come up in the discussion yesterday, the point being that Major Lipsett said 90% of the money that this company obtained and reinvested was supplied by, let us say for the moment, the public, and approximately 10% by Royalite.

MAJOR LIPSETT: Well, that was referring to the two later years, and these figures in "114", they put up more than 100%, so far as that goes, but I was dealing with the later investment, Mr. Nolan.

MR. NOLAN: Yes, I know.

MAJOR LIPSETT: The $363,738.00.

MR. NOLAN: Yes, in the last three big years.

MAJOR LIPSETT: Yes, and I was basing that, you see, on the figures in Exhibit "114", that is the beginning of 1937 they had this $507,000.00 in cash and at the end of September, 1938, when all these expenditures had been incurred, they had all that money still there except $97,000.00.

MR. NOLAN: Except $97,000.00.

MAJOR LIPSETT: Yes, their cash had come down from $507,000.00 to $410,000.00, and they had this eight or nine hundred thousand dollars of capital outlay paid for and spent in the meantime.

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WITNESS: Well, I think that you will have to go back to the beginning again and we will have to take into consideration the fact that dividends were in fact paid during that period, although we have not on this statement provided the funds wherewith to pay them and......

MAJOR LIPSETT: Well, Mr. Maw, so that I can follow you, is this a correct interpretation of Exhibit "118", that in the first column, that shows all the capital costs they put in, that is the net capital costs, amounting to $521,958.12?

A Not quite, the cash invested is the cash additional required after applying all the profits and all the amortization reserve in the purchase of new assets, then this amount, this further amount, was required from outside to acquire those assets.

Q Is that the total money which they put up, apart from profits?

A Total cash money, yes, provided that they have not expended some of the funds of this department on dividends and also bearing in mind the note at the bottom.

Q THE CHAIRMAN: What do you say is the total sum put up by the company, regardless of profit ?

A The total.....

Q MR. NOLAN: What is the total sum put up by the company in money, regardless of profit?

Q THE CHAIRMAN: They start out by putting up $152,369.84?

A Yes.

Q That is their own money?

A That is their own money.

Q They did not get that out of profits and operations?

A No.

Q Did they put any more up, of their own money?

A Yes.

Q Not obtained as a profit?

A Yes, the next year they put up, of their own money, $9,963.9[illegible].

Q MR. NOLAN: That is in the first column, sir, of Exhibit "118".

Q THE CHAIRMAN: Yes, and the next year, $40,600.57, is that it?

A Yes, and the next year $102,796.92, and the next year $119,245.61, but during each of those years they had been putting back also their amortization reserve as well as their profits, and as well as the outside money, so that if you assume that the amortization reserve should have been set on one side and not expended, the remainder available at the end of 1929, or in other words, the outside capital required to furnish the additions and the amortization reserve is $477,633.83, and that is the highest point which we reached during this period, again remembering that we have also paid out some of this cash in dividends and have not made an allowance for it here.

Q You mean the Royalite Oil Company itself?

A Yes, the Royalite Company has. It would be a little hard to allocate each year how much of the profits, of the dividends, should be supplied by the pipeline department.

Q MAJOR LIPSETT: But if we take this cash invested for the moment, Mr. Maw, apart from profits?

A Yes.

Q This amortization does not come into it at all, does it, if amortization must come out of profits?

A No, it does not, that is true, that amortization is only there as a memorandum to show what additonal money you would

have required from outside if you wanted to preserve your amortization reserve intact as well as......

Q These profit figures which you have in Exhibit "114" is the profit after providing for amortization?

A That is correct.

Q All right. Now, just let us follow then this Exhibit "118", is it correct to say that the total, your total in the first column, namely $521,958.12, is the total amount of the company's money that they put into this department during the entire period?

A No, that is not correct either.

THE CHAIRMAN: He says they also put in the moneys, the amortization moneys.

A And that was their money too.

Q MAJOR LIPSETT: That is part of the profits, the amortization?

A Oh, no, no, it is only part of the profits providing that you are content to have the asset with no amortization reserve on it at all, then it is part of the profits.

Q Just going back to Exhibit "114", Mr. Maw, you start, if I am not following you correctly I want to do it, you start with $152,369.00?

A Yes.

Q In 1926 or 1925?

A That is right.

Q Very well. Now, you then show the loss in the next column of $6700.00?

A That is right.

Q Is not that loss arrived at by writing off in your books $7518.00 for amortization?

A That is right.

Q Well, then, is not amortization taken into account in arriving at your profit and loss, in those figures in the second column?

A Yes, but amortization was not a cash expenditure, so.....

Q No, but it is profits that you wrote off to that amount, and do not show them as net profits at the end of each period ?

A I do not think profits is the way to describe them, amortization is not profits.

Q Let us take.....

A It is a deduction from profits.

Q I know that, that is what I say, it is a deduction out of your profits?

A Yes.

Q Before you show the net figure?

A That is right.

Q Now, just to let us have a clear example, to see that we are clear on it, in 1929, in your second column, you show a profit of $159,602.53?

A That is right.

Q Is that not after deducting from your gross profits the sum of $23,780.00, provided for amortization?

A That is right.

Q So that if you do not provide for your amortization, those profits would be about, over $180,000.00?

A That is right, and it is that total of 180 thousand which I have assumed to be cash provided out of the pipeline department and not put up from outside. In that year we were short at the beginning of the year $305,900 of capital that had to be put from outside and following along the line, I take off 182 thousand from that, showing that, in the fourth column, we were only short 122 thousand dollars of capital which had to be made up from outside.

Q Yes?

A And then we invested another 302 thousand in direct assets so that we needed altogether 425 thousand of outside capital in addition to investing our profits and reinvesting our amortization reserve.

Q THE CHAIRMAN: How much outside capital do you say?

A 425 thousand.

Q MR. NOLAN: $425,176?

A Yes.

Q THE CHAIRMAN: You say that once, that your amortization is a deduction from profits, that is true, but the deduction once being made it loses its character as a profit and becomes a capital replacement, is that what it means?

A Yes, that is right.

Q You say the machine is worn out 10% this year, if that is the rate?

A Yes.

Q And when you put that back in money in the amortization account you are merely replacing what you have lost and your capital investment remains the same?

A Yes.

Q So you say that how, how one should view profits, whether or

not they should be reflected in the rate, one thing is sure that if you use the amortization fund and put it into the further development of your line, you are using money that is given to you to replace your asset as it is wearing out?

A Yes.

Q But that being so at the end of the amortization period, now you are starting to amortize on that sum the moment you put it into new capital, are you not?

A That is right.

Q But you have taken your old plant and you have depreciated it entirely at the end of that time?

A That is right, and you are left with a pipeline which will stand you nothing on your books, because your amortization---

Q That is you have made a new line with these monies, you have made a new line with these monies which you have taken away?

A Yes.

Q This is not reconditioning now that you are doing out of operating expenses, you have made a new line, you have in theory taken up the whole of the old line to do it?

A Yes, I think that that would be a fair way of looking at it.

Q I mean if we come down to realities, it is just like taking the whole of your present day investment, tearing it up and selling it, to build a new line?

A That is right, and on the day when your amortization reserve reaches 100% of the assets, which for purposes of this inquiry we have set at seven different dates, the assumption being that at that time there is no further use for the pipeline, then you are left with a pipeline in the ground and nothing to do with it and how are you then going to turn it into cash, so I would say for purposes of looking at

the cash position here that it does not much matter whether the pipeline has cost us half a million dollars or a million or a million and a half, we are going to get it back by amortization and we will be left some day, we are bound to be left some day, with a pipeline in good condition in the ground and nothing to do with it.

Q Yes?

A So that too much consideration should not be given to the fact that we have a pipeline, because we know for sure that some day we are going to have a pipeline and nothing to do with that, so that our pipeline is of no value to us except insofar as we may make earnings out of it.

Q Yes, so that really after all these years on your theory as I appreciate it, if oil stopped flowing tonight, you would be ahead of the game 23 thousand dollars and that is on, plus your salvage?

A That is right except that we have unfortunately distributed in dividends during that period more than the 23 thousand.

Q THE CHAIRMAN: And you would have to thresh that out with your shareholders?

Q MR. NOLAN: That is another point but on the pipeline basis, his Lordship is right, when he puts that to you, in your opinion, is he not?

Q THE CHAIRMAN: 23 thousand plus salvage?

A That is right. The pipeline for what it is worth to us, no, no, the pipeline for what it is worth to us, and $410,000 because we do not need our amortization reserve twice over. If we are going to consider the pipeline is of no particular value then we do not need the amortization reserve so we still have $410,000 and the pipeline.

Q THE CHAIRMAN: But I thought you had turned that amortization reserve, to use an expression that I dare say is a happy one, that I have heard, "you plowed it into more line" all through this time?

A Yes, we have.

Q So you have not got it, if you have put it into new line, you have not got it in the bank, you couldn't have it in the bank and in the new line too?

A This is what we have done on Exhibit "114" is we have plowed it back into the new line.

Q Yes?

A And we have $410,000 in the bank. Looking at it from the straight cash point of view and nothing else, we have actually got $410,000 more cash now than when we started but as I say we should have set aside $386,000 of that cash to amortize the pipeline but as I say if you accept the view that the pipeline as a physical asset is really of not much value to us, then we have $410,000 because we do not need the amortization reserve on something which we do not value and that is the way I prefer to look at it, knowing that some day we are left with a pipeline that is no good, we should consider it from that viewpoint all the time. We have not put back the money into the pipeline because we wanted to, nor because we thought it was a particularly good investment but because we had to.

Q THE CHAIRMAN: If that oil stopped flowing tonight you would have the pipeline as you say but is it right to say you would have $410,000?

A Yes, if I had paid no dividends I would have, that is correct.

Q You would have it but you have a pipeline that you paid $410,000 for, which is no good, are you not out that money?

A No, on this statement I have got $410,000.

Q This is worked on the theory that you are entitled on your property to be treated as capital that which you have thrown back in?

A Yes, exactly, but if you plow your profits back in, so you have increased your investment, that applies everywhere.

Q All right.

A If you get a dividend on stock and you reinvest your dividend in additional shares in the same company you expect from then on to get a return on a larger investment.

Q MAJOR LIPSETT: It is a little clearer, if one follows it out first on Exhibit "114", Mr. Maw, is it not, in the second column, this profit column, after taking, writing back the losses in the first three years?

A Yes.

Q Your profits were $1,489,013.64?

A That is right.

Q Now to those profits, if you are treating amortization separately, have you not to add this sum of $386,626 to get your gross profits?

A Yes, we did not spend that in cash.

Q No?

A No that is right.

Q Then now it will be, would you just give us the total of those?

A $1,875,639.64 as set out in the reconciliation at the bottom.

Q Yes. Now that figure then was the profits that were earned over the period before you commenced to deal with amortization?

A That is correct. If you will look through the reconciliation it would make it quite clear, just to show how we were standing.

We have profits $1,489.013.64, which they gave to us in cash.

Q Yes?

A In arriving at those profits we had set aside $386,000 for amortization.

Q That is an additional sum now?

A Our profits before providing for amortization were $1,875,639. all of which was cash.

Q Yes?

A We then invested of that cash $1,465,150.56 leaving us cash $410,489.08, presuming no dividends were paid and ignoring interest.

Q And assuming that all your amortization had been taken care of up to that date?

A No, we have no amortization.

THE CHAIRMAN: That is just the point.

MAJOR LIPSETT: That is the whole point.

WITNESS: You see on a cash basis you do not allocate amortization from a cash viewpoint, we can forget about amortization.

Q THE CHAIRMAN: That is just what I am wondering, if you are not really doing an injustice to your company on your own theory.

A Yes.

Q You have something in the ground that is not paid for, that you have not got your money back out of, you say you have $410,000, now if one is entitled to get your money back from an investment, one is at least entitled to get their money back?

A Yes.

Q What is then paying for what is in the ground, which is now

no good, on the assumption that there is no more oil, where are you going to get that from, where are you going to get it back, you say you have $410,000?

A Exhibit "114" shows what was paid for it year by year.

Q MAJOR LIPSETT: If the whole thing closed down today, Mr. Maw, is the correct position that you would have everything paid for right up until today and $410,000 cash in addition?

A That is correct as I say, providing you had not spent that in dividends, that would be the position, subject again to that small notice of what we should have put into indirect assets, which I have not taken fully into account.

(Go to number 3051)

Q MR. NOLAN: I notice at the foot of Exhibit "114" you say "And ignoring interest"?

A Yes.

Q You know what I mean? The last line of Exhibit "114", "And ignoring interest, we have $410,000.00 in the bank." What do you mean by "ignoring interest"?

A I mean this, that as we have had to assume that no dividends were paid, and they were in fact paid, then we should assume instead that our money which was tied up in this pipeline for a good many years before we got it out again should have been earning us interest anyway during that period, and that if we compound the interest at any reasonable rate which you think we should be entitled to during those early years, if we compound that to date, and allow interest and compound it on the balance available from these later years when we had surplus cash as well as our investment, it will show that the Company has got quite an appreciable investment in this pipe line, Not merely the 10% which was suggested as being their only equity, acquired by their own funds.

Q MR. COMMISSIONER LIPSETT: If I follow this up a little, Mr. Maw, you won't imagine it is on any basis that you are not entitled to any reasonable profit, or reasonable interest?

A No, I would not.

Q But the actual position as I see it - if it is not right I would like to be corrected, is that you put $152,000.00 originally into this?

A Yes.

Q You then put various sums in which brought it up to around

400,000 or 500,000 dollars?

A That is right.

Q MR. NOLAN: $600,000.00.

MR. COMMISSIONER LIPSETT: That is including the indirect.

MR. NOLAN: No, the addition of these first six items. ell that does not matter. Perhaps I should not have said that.

MR. COMMISSIONER LIPSETT: $521,000.00 is the figure in Exhibit "118". Is that the figure you have in mind?

MR. NOLAN: No, it is the figure on Exhibit "114" direct assets, cash investment.

MR. COMMISSIONER LIPSETT: Well the highest figure at any time in Exhibit "114" was the $425,000.00?

A That is correct. On Exhibit "118" it is $477,000.00.

MR. FRAWLEY: Where did you get this, Mr. Nolan?

MR. NOLAN: I added together the first six years of money we put in in Exhibit "114". Is that wrong, Mr. Maw?

A Yes.

MR. COMMISSIONER LIPSETT: Yes, because in 1929, 1930 and 1931 there were profits being made. However, that is not material. That is not the point, Mr. Maw.

A I still do not see where the $600,000.00 comes from.

MR. NOLAN: An addition of the first six items on Exhibit "114" showing the cash invested in direct assets?

A Oh, I beg pardon. Yes. rom which we would deduct the profit which we are assuming to have reinvested.

Q Yes?

A I am sorry. I was looking at the wrong exhibit.

MR. NOLAN: Very well, Mr. Commissioner, I am sorry.

Q MR. COMMISSIONER LIPSETT: The original investment was $152,000.00 and some 300,000 or 400,000 in addition was put in in the early days to get the Company going?

A That is right.

Q And then this large investment was made in 1937 and 1938 on the new pipe line?

A Yes. But might I interrupt you there for one moment.

Q If I may get this to you, and I will get your information afterwards. The net result of all that is that everything is paid for at the present date and $410,000.00 available in the bank?

A That is right.

Q Plus the pipe line which, if it is a going business, is estimated at around $1,600,000.00 today?

A That is right.

Q So that the Company have got approximately $2,000,000.00 between property and cash at the present minute?

A That is right.

Q On its investment of $152,000.00 plus some annual sums of three or four hundred thousand dollars that was used in the early days temporarily?

A Well I do not think that that is quite a fair picture, because, supposing we do it this way, that we looked at our profit each year and we decided that half the profits were available for dividends and half the profits could be reinvested in the business. I could, if you like, on that basis, work out a fresh calculation showing you how much we have invested in

the business. It would be a very very much larger sum than what we show here.

Q And of course, Mr. Maw, it is on that point of view - I may say there is no question the Company were entitled to recoup their losses and get a return on their money during that period?

A And to disburse it?

Q Yes, and to disburse it.

A Yes.

Q THE CHAIRMAN: Of course, there is the other very definite theory now, that every cent of those profits were their own, and if they were put back in they were capital investments.

Q MR. NOLAN: Do you agree with that?

A I say that if they put back their own profits that their investment is increased by the amount of the profits which they have put back in. There is no question of that.

THE CHAIRMAN: I do not know. I will try and sort this thing out in my mind at my leisure, but I see a difference taking this amortization fund - well however go ahead.

MR. NOLAN: You say that we took the profits and put them back into the investment. We might have put the profits in our pocket?

A That is right.

Q But the investment has been inzreased by reason of the profits being used for reinvestment purposes?

A That is right.

Q And that is part of the value of this concern today?

A That is right.

Q MR. COMMISSIONER LIPSETT: Mr. Maw, what would you say on the question of hazard, and rate of return on the picture as we have it, assuming for the moment that we should disregard profits in the past. Do you feel there ever was a time except at the start when there was any hazard?

A Yes, definitely.

Q Would you explain that?

A I would have to say that to be consistent when I say that by reinvesting their profits they are increasing their investments. Therefore, their whole investment is subject to hazard, whether it was provided out of profits or not.

Q What do you think your estimate of hazard would be, taking the basis your firm has put on, amortizing by 1946?

A What are the hazards today?

Q To this investment, if it is completely repaid now by the date you assumed, 1946?

A There are several hazards. One is that we should for various reasons, operate it at a loss until the time when it is fully amortized.

Q Will you explain that, Mr. Maw, how you mean operate it at a loss?

A For this reason that from now until 1946 we have got to be prepared to increase our annual amortization charge very substantially, in order to have the whole asset amortized by 1946.

Q Assuming that, that is the basis of your figures, that everything would be amortized, your present investment,

by 1946?

A That, I say, is a hazard for this reason that we would normally, taking nothing else into consideration, expect to have a higher rate every year between now and 1946, to take care of the additional amortization which must occur each year.

Q Why? Why additional?

A Because the only circumstances under which the amortization charge will not increase each year, would be that the Company does not service any more wells than it is at present servicing, and has to make no additional capital expenditures between now and 1946, which is an absurd hypothesis. Everything they spend in 1939 they have got to recover in 8 years. Everything that they spend in 1940 they have got to recover in 7 years. Everything that they spend in 1941 they have got to recover in 6 years until finally everything that they spend actually in 1946 must come out of the 1946 earnings. So that the amortization is bound to increase each year with the consequent increase in costs and that is why I say one of the hazards is that they might have to operate at a loss between now and 1946.

Q Are you suggesting that they spend a lot of capital money without getting a revenue return commensurate with that particular expenditure?

A That, of course, would be a distinct hazard in the later years, yes.

Q That would not be any hazard as far as this capital is concerned would it?

A I would not think so. It should not be. Of course, this capital is already spent. You are

speaking of future spendings?

Q Yes. In other words why should you spend future capital if it was not going to be remunerative?

A You have to do that because if you do not do it somebody will go in and put in a pipe line.

Q And is not that just because it is profitable, not because it is hazardous?

A No, I would not say that. I would say it was because of the necessity to protect the investment we already have we are compelled to make future investments.

Q THE CHAIRMAN: You say you are entitled to contemplate that -- or that we should contemplate you will do that and must do that to carry on the business in a prudent and proper fashion.

A It is bound to have the effect of increasing the cost every year to an increased degree.

Q MR. COMMISSIONER LIPSETT: That would mean supposing you put in an additional line, Mr. Maw, in two or three or four years hence, and whoever gets that line goes to the Utility Commissioners or somewhere to get a rate fixed, if your basis is correct, that new rate on that line would be fixed on the basis of amortizing over 2, 3, 4 or 5 years?

A That is correct.

Q And finally ending up in 1946?

A That is correct. We were speaking of 1946. Of course there were different calculations for different periods. But for this purpose of this argument we used 1946.

Q I was trying to get your picture all the way through. I gathered your firm took 1946?

A That is what we did in our main presentation, but we have worked it out on 5, 10, 15 years and so on.

Q MR. NOLAN: Does not the same principle apply if the period be 10, 15 or 20 or 25 or 30 years?

A Yes.

Q It makes no differeace?

A It makes no difference. Some day you have to end up with a pipe line and nothing to do with it. You cannot put that in your pocket as cash.

Q Now, Mr. Maw, I do not want to go into another long discussion if I can avoid it......

THE CHAIRMAN: Excuse me. This $410,000.00 that you say, if everything stopped tonight, you would be that much ahead, plus the pipe in the ground, that is your view at this minute?

A That is correct. That is all that we have to show for the work that we have done and the service which we have given between 1925 and 1938.

Q You have taken your replacement moneys. Before you can amortize something it can only be on the assumption you first made a capital investment, is that not right?

A That is right.

Q So that to the extent you have amortized you must just replace something you have paid out?

A That is right.

Q When you end up tonight you have taken all the moneys that replaced the moneys that you had invested in capital already, and you have invested them again?

A Yes.

Q That is making a double investment and to get that

investment back you have to have it amortized haven't you?

A Perhaps I do not quite follow that, my Lord. What I would suggest is that today I have in the bank $410,000.00, of which I had set aside $386,000.00 to replace my pipe line.

Q Yes?

MR. NOLAN: That is just the point the Chairman is making.

THE CHAIRMAN: The point I am making, perhaps in a very cumbersome fashion, is trying to get at - it is obvious this $410,000.00 you say you are ahead you put it up yourself as an addition to the cost of this investment?

A Yes.

Q How are you ahead something you have taken out of your own pocket?

A You are only ahead from the cash point of view. You are certainly not ahead from a business man's investment point of view.

Q Well I do not see.....

A You are only ahead in actual cash, forgetting if we are entitled to take our profit out each year and put it somewhere else, but by taking these profits, assuming we were entitled to any profits, then on that assumption we have $410,000.00 as a reinvestment for.....

Q MR. NOLAN: What the Chairman is putting to you is this, does this operation, this investment owe you $386,000.00, or do you owe it $386,000.00 out of the $410,000.00?

Q THE CHAIRMAN: Yes?

A On the principle that you replace the capital which went into your first line.

Q MR. NOLAN: You have that coming to you.

A On the basis of the thing closing up tonight, I do not need to put that $386,000.00 of my reserve back in.

Q You have put it in.

Q THE CHAIRMAN: It is there in the ground, in a new line?

A If it is then I have the $410,000.00 in the bank.

Q That is fine.

THE CHAIRMAN: Well one of us has to go to luncheon today, so we will sit a little later tonight.

MR. NOLAN: It is taking much longer than I thought it would but perhaps it is not unprofitable.

MR. FRAWLEY: It is unavoidable, I would say?

THE CHAIRMAN: Yes.

(At this stage the Hearing was adjourned until 2.00 P.M.)

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2:00 P. M. Session.

(Examination of Mr. Maw, continued by Mr. Nolan;)

Q Mr. Maw, just before the adjournment you were pointing out to the Commissioners that the amortization would of necessity go up as the years go on, irrespective of the length of time upon which the amortization is based?

A That is true, yes.

Q Is there anything else that goes up?

A Yes, the general operating expenses of the system would of necessity also go up.

Q Why?

A Because we have at the present time a given number of wells which are supplying the market requirements and there are new wells drilling and the wells which at present are supplying the requirements are going to reduce their output every year, partly because the field is more or less on a pro-ration basis and an allowance has to be made for every new well coming in, and partly because the history of these crude wells is that they gradually die down, and if the market is to be maintained then it has to be maintained out of more wells, so the gathering system will increase and the cost of operating it will increase also.

Q THE CHAIRMAN: Your amortization charges, you say, will go up because of having new gathering lines, I suppose?

A That is right.

Q MR. NOLAN: And new capital invested?

A New capital invested in it, which has to be amortized between the time the investment is made and the finishing of the operation of the product.

Q THE CHAIRMAN: Yes, now as against that, with regard to the line in existence, the amortization rate should go down, should it not, as it becomes less useful?

A No, it will remain the same. When that line was put in the amortization of it was divided annually between the time when it was put in and the estimated end of the operations, that is a line put in in 1930 was amortized between 1930 and 1946, a line put in in 1932 was amortized between 1932 and 1946, and the annual charge of those lines is the same each year, 1938, 1939, 1940 and so on, will all bear the same proportion.

Q Yes; if it is a ten-year period you do not say when five has expired, it is only half as useful an asset?

A No, it is just as useful an asset but we have recouped half the cost of it out of our annual amortizing charge.

Q Just while we are on amortization, I was trying to sort out my thoughts about the thing during the noon-hour. Now, if you treat it as an operating cost, that, of course, is one thing, if you treat it as the creation of a fund to replace the original capital invested, that is another, that is money which, in theory, goes into a Bank account?

A Yes.

Q So that at the end of the period set aside for amortization you have your capital back?

A That is right.

Q Now, what I was trying to put to you, and I put it down with the thought of getting it clear in my own mind, if, to use small figures for a change, if you put $1,000.00

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into a pipeline and make that investment in it, a capital investment of $1,000.00, and assuming that you are privileged to create a fund, a depreciation fund, at say 10%, take any figure, over a period of ten years, at the end of ten years in the depreciation fund there would be $1,000.00?

A That is right.

Q Which would be the amount of the capital originally invested by you?

A That is right.

Q But in theory that line in which you invested your thousand dollars would have disappeared?

A Not necessarily, it will either have disappeared or it will have been maintained, but at the expiration of ten years you will have no further use for it.

Q Quite, it is gone. In the theory of your getting 10% every year, at the end of the ten years it is a useless thing, is it not?

A That is right.

Q Now, you have that theory and you have acted on it?

A Yes.

Q Which is replacing the thousand dollars you have originally put up?

A Yes.

Q But if, during that period of time you, instead of keeping that thousand in the Bank account, you put it into extensions of this line, and the operation of the field stops to-night for lack of oil, is what we were talking about?

A Yes.

Q You would have the thousand dollars left in the line?

A I would have more than a thousand dollars , I would have my

original thousand.

Q Yes, but I am assuming that when you depreciate it, it ceases to be of value?

A But at to-day, taking the operation to-day, I would have more than a thousand dollars invested, I would have my original thousand dollars plus what I have invested out of the reserve which I have set up to take care of my original thousand dollars.

Q But putting it on the highest plane from your standpoint, assuming you were depreciating accurately?

A Yes.

Q And that your asset was gone when your depreciation fund was completed?

A Yes.

Q That is the most favourable plane upon which you can be put?

A Yes.

Q And you put, instead of keeping that depreciation fund, and saying "I want my money back, I am going to put it into something else now"?

A Yes.

Q You put it back into that pipeline business?

A Yes.

Q Then if the field ended to-night, its usefulness ended to-night, you would lose that thousand dollars, would you not, less salvage?

A That is right, I would also lose the other, my additional investment too, in the field if it stopped to-night.

Q No, you were paid that back, you got it, you got it, you put in a thousand dollars?

A Yes.

Q You are allowed 10% a year for ten years, you have got that

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thousand back, have you not, you have not lost it, you have it?

A I have it.

Q But you did something with that though?

A Yes.

Q Instead of keeping it in your Bank account or putting it into something else?

A Yes.

Q You put it back into this pipeline?

A Yes.

Q Well, if the field ended to-night, less the salvage, you would be out that thousand dollars, would you not, and why should you not in examining your net position, take that away from your profits?

A I would have lost more than a thousand dollars because when I reinvested my amortization reserve in additional assets I must amortize those additional assets too, and I must take out of my profits enough money to amortize my new assets as well as my original thousand dollars, so that if the field finishes to-night, I have lost my thousand dollars and my new assets too.

Q Well, it is because you have lost your new assets that you have lost the thousand dollars by virtue of the field ending?

A Yes, when the field ends.

Q You see, if it was in good shape and the field was going on, you would not have lost your thousand but you may lose something more, as you say, because in this period as you put in that amortization money year by year, there would be something, you would be entitled to something in the way of amortization on it?

A Quite.

Q It would be more than a thousand?

A Yes.

Q But just to keep to our thinking, if we say you would be out, if the field ended to-night, that amount, in examining the net position to-day, why should that not be taken into consideration in any profit you have made, if you think you are entitled to have the capital back?

A When the field ends to-night, have I fully amortized my original thousand dollars up until to-night?

Q Yes?

A It is the thousand dollars that I put in ten years ago.

Q Yes?

A And I made an exact guess that the field finish to-day?

Q Yes?

A At the same moment that I assumed it would?

Q Yes?

A Then I have.....

Q You get that thousand back, remember?

A I have taken my thousand back out of my profits and loss account each year.

Q Yes?

A But I have reinvested it.

Q Yes?

A And the assets that I reinvested it in are not fully amortized.

Q Certainly?

A No.

Q So you lost something more than a thousand?

A Yes, I have lost quite a lot more than a thousand. If I reinvest each year the whole of my amortization reserve what I take out of my profits this year, I have lost completely.

Q Yes?

A I have put it into the assets this year and lost it at the same time.

Q I will assume you have lost more than the thousand?

A Yes.

Q Why should you not take it off, in examining your position why should you not take it off, I mean you are going to take stock, the field is done, why would you not take that off your profits in arriving at your net position?

A My net position to-day?

Q You would make some money?

A On the basis of your thousand dollars, would be that I have nothing, I would have nothing, that would be the net position to-day.

Q Of course, I mean if you had made profits over the ten years you would have this?

A But all that I have is my thousand dollars plus the reinvestment of the amortization, of my thousand dollars, and to-day that would leave me nothing at all.

Q You would just have some salvage there?

A I would have some salvage and that is all, so my net position to-day would be that I have nothing except a useless asset.

Q Yes, quite so, yes, you say you would not even have the thousand because it has been reinvested in something which is now valueless?

A That is right.

Q Well, upon that reasoning why should not this $386,000.00 come off the $410,000.00, that is what I have been aiming at in a very roundabout way for a long time, and probably I am quite wrong.

MR. NOLAN: It is Exhibit "114", Mr. Maw.

A Yes, I see your difficulty there, but we stop this operation to-night.....

Q Your last word was that you were $410,000.00 ahead, and I have been wondering whether you should not have said that you were $410,000.00 less $386,000.00 ahead?

A No, because I have put back my $386,000.00 into the business, and I have still got $410,000.00 in cash, so that I am ahead $410,000.00 to-day, plus a useless asset, and the $410,000.00 that I have in the Bank to-day is my remuneration for operating this system since 1925 to 1938.

Q Now, you have then $410,000.00, quite clear of the $386,000.00?

A That is correct, that is assuming that the thing finishes to-day.

Q Yes?

A I do not need my amortization reserve, which I have put up, I do not need to put it back and replace those assets.

Q No?

A So I have it in the Bank and I can use it for what I like because my operation is finished.

Q Yes?

A And the purpose for which it is ear-marked is no longer required, so that is my own money to do what I like with now.

Q Yes, that would be fine if it was in the Bank?

A And this is in the Bank, this $410,000.00.

Q That is in the Bank?

A In the Bank.

Q Where is the 386? In our theory it is in the field?

A No, that is in the Bank, ear-marked for replacing my investment, but if I do not have to replace my investment then it need no longer be ear-marked.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Q Oh, that is in the Bank?

A That is in the Bank as part of the $410,000.00.

Q MR. NOLAN: Now, there.....

A Yes, as part of the 410 thousand.

Q But we have not got 796 thousand in the Bank?

A Oh, no, no, we have 410 thousand.

Q THE CHAIRMAN: Part of which is the 386?

A Part of which is the 386.

Q But it is in the field in the line?

A No, this is additional to what is out in the field, we have got $410,000.00, we cannot deny that.

Q No?

A And if the field is not finished to-night, we have earmarked 386 thousand of it to amortize our assets, but if the field does finish to-night we say we have no more assets, we do not need to amortize it, our asset is useless, so our whole $410,000.00 may now be looked upon as our remuneration for operating this system for the past thirteen and a half years, and which has also got to provide us with interest.

Q I follow that personally, but I was under a misapprehension, that all of this amortization money had been put back into the field?

A They have.

Q They have?

A They have.

Q I thought they were in the Bank now, part of the 410?

A And we have $410,000.00 left; you see, our amortization was always cash to us.

Q If it was in your Bank, you cannot both have it there and somewhere else too, it is either in that field or in the Bank?

[illegible]

[illegible] 00,000, [illegible]

[illegible]

A What we had each year in cash was our profit in cash and our amortization was also cash.

Q Yes?

A We have deducted that from our profit, we will put it this way, if you like, each year we had a profit before amortization larger than the profit which I show on here by the amount of amortization, and that profit before amortization is the cash which we had.

Q Yes?

A At the end of this period that profit before amortization is the total cash less what I have invested in new assets, is $410,000.00, that is cash.

Q Before amortization?

A The profit before amortization is $410,000.00. Now, on the basis of the field finishing to-night I am not interested in amortization nor in my assets, so I forget about both of them, and I will be interested in the $410,000.00 which I have in the Bank.

Q But before you say you made any profit, if it ends to-day, will you not be concerned with getting your capital back, will you not be concerned with taking this money which you have set aside for amortization, you are not amortizing ahead, are you, you are doing it year by year?

A No, this is the amortization required to date on this basis.

Q All right; are you not concerned with getting any capital back?

A I have got my capital back.

Q How could you have it back before you take out the amortization money with which you recouped what you have spent in capital?

A I beg your pardon, I should not say I have my capital back,

I have not got my capital back, if you concede to me that the profits which I invested each year are my capital. On that basis I most certainly have not got my capital back.

Q That is the theory which we have been talking about to-day. You take, I was not discussing profits at the moment, but it is predicated on the theory that both you and Mr. Morrison have, that when you get profits and you put them into the operations it is an investment of capital?

A Of new capital.

Q Yes? I mean whether we finally conclude that or not, I am proceeding on that theory in this discussion?

A Well, my Exhibit "114" is not drawn up on that basis. My Exhibit "114" is not drawn up on the basis that profit each year should be looked upon as new capital.

Q On your theory, of course, they should be when reinvested treated as new capital?

A Exactly, but that was not what I was asked for when I was asked to prepare Exhibit "114". If I had prepared that on the basis of the profits being my own and when they are reinvested giving me a larger investment, it will be a very different story from Exhibit "114".

Q Yes, well.....

A A very, very different story.

Q THE CHAIRMAN: I hate to keep asking for a new sheets.....

MR. NOLAN: Oh, no.

THE CHAIRMAN: But it might be a very useful thing to prepare.

MR. NOLAN: Yes.

THE CHAIRMAN: I would just like to run this down, even although it takes a few minutes, on the theory

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we are talking about now, I cannot for the life of me see how it is part of this $410,000.00, Mr. Nolan.

MR. NOLAN: No.

WITNESS: May I explain it this way, my Lord,

THE CHAIRMAN: He has the line in the ground.

Q MR. NOLAN: Let me ask you a question, Mr. Maw, supposing to-night is the end of a fiscal year. A year ago to-night we deducted the amortization from the profits of that old year in order to find the net profit?

A Yes.

Q Why don't we do the same thing to-night, the field is ended, I grant you, but it is the end of a fiscal year too, why don't we subtract the 383 thousand from the 410, we did it twelve months ago, didn't we, did we do it a year ago, Mr. Maw?

A Yes, and I am afraid that is not going to clarify it for the moment. I will answer your question, Mr. Nolan, but.....

Q Please explain, don't bother about the question?

A If I might give this explanation, and I think this will make it clear, on Exhibit "114", if we take the year 1930, there was a profit of $211,000.00. On this statement I have deducted that profit from my investment which, at that time, and on the basis that this is drawn up, Exhibit "114", when it stood at 425 thousand, and I say that I have outside of capital in the business, invested 179 ~~thousand, but on the basis~~ that my profits are my own to do what I like with, if I remove them from here and put them in my pocket this year instead of putting them back into new capital assets, I would have to get $211,000.00 from somewhere else to buy my new assets with, that is to

say, if we withdraw the profits from the business, I am not, in 1938, in the position of having had $410,000.00 back, I am in the position of having a very large investment of cash there.

Q MAJOR LIPSETT: But in that year 1930, Mr. Maw, you give your profit as 211 thousand?

A Yes.

Q Leaving out amortization, are not your profits 211 thousand plus the 33 thousand?

A That is correct.

Q Your actual profits of cash, which you get, is 244 thousand?

A That is the cash I get.

Q Yes?

A That is correct.

Q And this amortization which you put in there is over and above the net profit which you show in the column?

A Well, I am only entitled to withdraw from the business my profits.

Q Yes?

A 211 thousand, I must leave this 33 thousand dollars of amortization reserve there, I may pay myself a dividend in excess of my profit.

Q But you have the extra money?

A So I can take out $211,000.00 and then that year I have made an investment of, in this particular case, only 45 thousand dollars, I may, if I like, sending my amortization reserve, 33 thousand dollars into it, but I still have to find 12 thousand dollars of outside money to make up the rest of my investment.

And in the previous year if I had taken out my profit, I had to go to the public and find $300,000.00 to put into these assets.

Q MR. COMMISSIONER LIPSETT: In 1930 when you say you put in $45,000.00 you got in profit and amortization, you got $244,000.00 or $245,000.00?

A That is correct.

Q And you put back this $45,000.00 or whatever it was?

A No, I took my $211,000.00 of profit and I invested in in a brewery, say. Something quite different, and then I had to find additional capital to make my new investment in direct assets.

Q The position then would have been instead of having $1,600,000.00 of capital in pipe line, you would have had $1,600,000.00 today in pipe line plus a brewery, from this original investment of $152,000.00?

A Oh no, because my original investment could not provide me with funds to invest in a pipe line and in a hrewery both.

Q The original investment plus profits?

A Plus new capital which I have brought in each time I have removed profits. My investment today would be my original investment of $152,000.00 plus all my profits of $1,489,000.00 and I would have an investment of $1,600,000.00 and some odd dollars.

Q Plus the $386,000.00 that you call amortization?

A I would have that in cash too.

THE CHAIRMAN: We are having a terrible struggle trying to save the Royalite this $386,000.00. How you could have that profit without first taking out the capital you put in I cannot see.

A Why surely. When you sink $100.00 in an investment, no matter what it is, and you can earn a profit of $10.00 on it without bringing back your $100.00 in cash to it first.

Q If at the end of 10 years I have only managed to get $100.00 I would not think I had made much of a profit on my investment?

A You have not made any.

Q That is what I am getting at. If at the end of this period of time - after all this is only a test about this ending tonight - if at the end of this period of time beyond the money which you have got, $410,000.00, of which $386,000.00 of that is amortized, is a capital investment that you put into the line and that is useless. I think there is an answer to it but I may be quite wrong in my view. I must be.

MR. NOLAN: Would you like to know why, Sir?

THE CHAIRMAN: Yes?

Q MR. NOLAN: What is the amount of that money in the bank?

A $410,000.00.

Q And of that is a certain proportion, namely $386,000.00, earmarked?

A Yes.

Q Out of the $410,000.00?

A That is correct.

Q Then we have not two bank accounts?

A No.

Q We have one?

A Yes.

Q And it has in it $410,000.00?

A Yes.

Q And $386,000.00 of that is earmarked for this amortization reserve?

A That is right.

Q And if the field ends tonight it is not required?

A That is right.

Q Because there is nothing to amortize?

A That is right.

Q So, therefore, the $410,000.00 is clear of this encumbrance of $386,000.00?

A That is right.

Q And is released and is your own money?

A That is right.

MR. NOLAN: I have said a lot of things that are right.

Q THE CHAIRMAN: Why is that right, if you have to amortize to get that? Presumably when you amortize it year by year to get the $386,000.00 you have lost a corresponding asset haven't you? You have it lost as you build up the amortization fund.

MR. COMMISSIONER LIPSETT: We take the $386,000.00 out of the profits all the time, year by year?

Q THE CHAIRMAN: But to return your capital already taken out of your pocket, otherwise you have no right to amortize?

A That is right.

Q The witness says "Well we won't need this amortization money because the field ends tonight." You have already used needed it, or you should not have it, to pay for the depletion which has occurred in your assets. You should

[illegible]

not have that $386,000,00 unless you have lost out of the thing in which you put your money $386,000.00 worth of depletion.

MR. NOLAN: If the field ends tonight I must have lost it.

THE CHAIRMAN: You must have lost it now, not that you need it for 10 years hence. If it lasted 10 years more you would be amortizing some more on a different basis of life, say 20 years.

A That is correct. But look at it this way. Tonight when the field finishes our investment has cost us $1,465,000.00. It does not matter what it cost us, it is worth nothing to us. So it makes no difference to my cash position whether I say that I have got a pipe line at least worth $1,465,000.00 or whether I have applied the reserve that I have for it and say I have at least a pipe line worth $1,080,000.00.

Q MR. NOLAN: You mean $1,870,000.00.

A No, $1,080,000.00, and take my reserve back again. It will still leave me with an asset on my books tonight of $1,080,000.00. It is still worth nothing to me, the same as it is worth nothing to me if it is the gross asset without the amortization reserve.

Q THE CHAIRMAN: What you have got left then is worth nothing?

A Worth nothing.

Q This $1,000,000.00 and something?

A What I have which is worth something is the $410,000.00 in the bank. But this $410,000.00 in the bank which I have put in out of my profit, and I did not have to put my profit back in. If I had kept my profits in my

pocket I would not have the $410,000.00 in the bank today. I would owe somebody $1,000,000.00 for the money I put into my pipe line. That is the proper way to look at it in my opinion. This statement, Exhibit "114", is a true statement for the purposes for which it was asked, namely, showing the proportion invested annually from profits, on the assumption that you wanted to put your profits back into the business. But if you did not want to put your profits back into the business you would have to find $1,000,000.00 from somewhere else to build the pipe line with. I hope that makes it clear.

Q MR.NOLAN: Mr. Maw, I do not want to get into an involved discussion about this figure of $121,000.00 shown on Exhibit "109", being the percentage of utility assets, but asking you just for one moment to look at it and at your report, being Exhibit "100", and comparing that figure with the figure of $324,252.85 shown as at September 30th, 1938?

A Yes.

Q You know what I am talking about?

A Yes.

Q Can you show me why those figures are in that variation? I attempted yesterday to get that.

THE CHAIRMAN: What is that?

MR.NOLAN: That is taking Exhibit "109" and the percentage of utility assets in the total of $121,024.57, and endeavouring to reconcile that with....

THE CHAIRMAN: Where is that?

MR. NOLAN: Exhibit "109". If you

[illegible]

look at the figure $324,252.85 on Exhibit "A" of Exhibit "100". Why is there that wide variation in those two figures? Can you explain that succinctly, precisely and clearly.

THE CHAIRMAN: Perhaps I am becoming bemused, but I do not see the figure of $324,000.00.

MR. NOLAN: It is at the end of 1938 which is on Exhibit A of "100".

THE CHAIRMAN: Oh yes, I did not hear that. Exhibit A of "100". This figure becomes $324,000.00.

MR. NOLAN: Yes.

Q Now, Mr. Maw, without any assistance from me, would you please explain that if you will.

A $324,000.00 is a figure which we have included as at September 30th, 1938, to represent the proportion of investment in utilities assets and service units applicable to the Pipe Line Department, allocated on a direct operating labour basis. I am not quite sure what you are asking me, Mr. Nolan.

Q Well, Mr. Maw, the Commissioners were struck by the fact that in Exhibit "109" the percentage of utility assets in this grand total amounts to $121,024.57 in 1938, right up to the end of this period?

A That is a figure which bears no relation to any of the figures included in our Exhibit "100".

Q All right. Why has it no relation?

A Because on Exhibit "100" we are looking at the pipe line operation as it appears to us on September 30th, 1938, and we see that we have invested in it, in trunk lines, gathering lines and other, direct capital

assets $1,227,320.41. And we also have invested in the operation a proportion of the assets of the various utilities and service units of the Company, because our pipe line could not get along without those assets.

Q Let us call them indirect assets?

A Indirect assets. They amount to $324,252.85, on our percentage.

Q Why do not they amount to $121,024.00?

A That figure means nothing. It is not related in any way to this $324,252.85. That is a figure you will have to deal with quite separately.

Q Which figure?

A The $324,000.00 is the proportion of the assets which we think today should be allocated as assets necessary to the operation of the pipe line department, and we have allocated that on a direct operating labour basis. We have to have some basis for allocation. I am not trying to say that for this purpose the direct operating labour basis or the total labour basis are either of them perfect methods of arriving at what the percentage of indirect assets should be here. But they were the only ones available. I think it more than a coincidence that both Mr. Morrison and ourselves allocated the proportion of the investment on a labour ratio.

Q Yes?

A That I think to my mind shows that the figure at September 30th, 1938, should be $324,000.00, the figure appearing on Exhibit A.

Q What the Commissioners suggest is this, that if the

grand total of your percentage of utility assets over a period of 13 years, that is down to now, here, this date, is $121,000.00, how does it become $324,000.00 in Exhibit A of Exhibit "100".

A Because there is no relation whatever between the two figures. This on Exhibit A is a picture of the pipe line assets as they stand now.

Q Yes?

A And when Exhibit "A" was made up, Exhibit "109" was not in existence?

Q No.

A Nor had Exhibit "109" any relation to Exhibit A.

Q THE CHAIRMAN: All right, grant that. No relation at all. But supposing that a curious mind would like to know what was the value of the interest of the pipe line company in these utility and indirect assets, so-called, what would you say was the proper figure?

A $324,252.85.

Q Yes? That is the value of the interest of the pipe line company in these assets?

A That is correct.

Q And that should be added, should it, to these other capital sums, as invested capital? To the direct assets to get the total of the capital investment of this Company as of today?

A Yes.

Q MR. NOLAN: Was that done in Exhibit A of "100"?

A Yes.

Q You added the investment of the direct assets, or you

took the investment in direct assets and added a portion of the investment in indirect assets and your answer is $1,551,573.00?

A That is correct.

MR. NOLAN: That is what his Lordship wants.

Q MR. COMMISSIONER LIPSETT: Will you take Exhibit "109" and explain that to us, Mr. Nolan. That is what the Judge wants.

MR. NOLAN: Forgetting about your report altogether. What does Exhibit "109" mean? What good purpose does it serve? What is it for?

A "109" was prepared with the intention of showing as closely as possible the weighted average number of years during which the investment was employed on the basis of amortizing the capital completely by December 31st, 1946, and it was drawn up to include, on as nearly a correct basis as possible, some proportion of the investment in the utility assets as well as the direct.

Q In order only to arrive at the weighted average number of years during which the investment was employed?

A That is so.

Q Now this figure of $324,252.85 is on your basis of allocation, yours, Price, Waterhouse's basis?

A That is correct.

Q Mr. Morrison arrives at a different figure?

A Yes, he does.

Q His figure being $181,000.00 if my memory serves me. I am not quite sure. I think that is about right. $181,000.00?

A Yes.

Q It seems to me that you arrive at a very different result, Mr. Maw, as to whether your basis or the operating labour basis is used?

A That is true. That is our labour basis is the operating labour basis. You mean whether our basis or the total labour basis is used.

Q Yes. I do not want to worry anybody with this. Mr. Morrison's basis may be described as a total labour basis and yours as an operating labour basis?

A That is correct.

Q The difference between you is very wide when it comes to the final figure on the percentage to be applied?

A That is so.

THE CHAIRMAN: Subject, of course, to Mr. Morrison's adjustment with respect to the high paid labour.

Q MR. NOLAN: Subject to the adjustment Mr. Morrison makes which was 5/7ths of the drillers' wages because of the disparity which existed between those two?

A Yes.

Q He tried to bring that to a uniform basis?

A Yes.

THE CHAIRMAN: If you adopt his theory at all, I mean if you were to?

A Yes.

Q Would you be content to do what he has done with respect to the drillers?

A Yes.

Q MR. NOLAN: But would you adopt his

basis?

A No.

Q Why not?

A Because on examining his basis and carrying it out to its logical conclusion, it ceases to be a scientific basis and is an estimate or guess.

Q Because you say it is not carried out to its logical conclusion?

A Yes.

Q Will you demonstrate that for me if you will? Let us take a figure. I had a figure the other day from Mr. Morrison's report. If you will direct your attention to Exhibit "88" on Page 21 of that exhibit.

THE CHAIRMAN: Just a minute, Exhibit "88"?

MR.NOLAN: That is Mr. Morrison's Report. On Page 21 of Exhibit "88" I observe Mr. Morrison has Proportion of Utility Expenses and Service Units totalling $112,968.27. That is the first total, Sir, on that page. He has, Mr. Maw, a total of $121,702.01 in respect of the proportion of administration and general expenses. Now Mr. Morrison takes as his percentage, on the basis which he is using, 18% of those two figures, $112,968.00 and $121,702.00?

A That is right.

Q And he produces two figures from that, $20,662.00 and $22,260.00, making a total of $42,922.76?

A That is right.

Q Now that $42,922.76 is charged against operations.

A That is so.

Q Is that right?

A No.

Q Why not?

A The basis of the percentage of 18.29067% is the total payroll for the period, with the drilling payroll adjusted in money to 5/7ths thereof. And that payroll, that total payroll includes all capital and operating wages.

Q Yes. Now let me go back. The other labour ratio basis being used in this case by Mr. Morrison is all the men in the pipe line department whether they be on capital expenditures or operations?

A That is so.

Q As compared with the total number of men employed by the Royalite Oil Company, whether on capital expenditures or operation, modified by that 5/7ths for the drillers?

A That is so.

Q You have capital and operation on both sides of his equation?

A That is right.

Q And he comes to this conclusion that 18% of all the men employed on capital expenditure or operations by the Royalite Oil Company are in the pipe line department?

A That is right.

Q And that is how he gets his 18%. Why do you say that it not carrying it to the logical conclusion?

THE CHAIRMAN: Is that right, Mr. Nolan? I thought it was 18% reduced to dollars, now 18% of the men though?

A It is putting the dollars on a men basis.

MR.NOLAN: I think I can show it is 18% of the men because we have arrived at the percentage

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

of men by looking at the dollars on the payroll. It does not much matter, I do not think. Well, 18% of the payrolls for the whole of the Company, whether it be on capital expenditure or on operating is in the Pipe Line Department either in operating or in capital expenditures?

A Yes, that is right.

Q That is another way of putting it and perhaps it is a more correct way of putting it. Now develop it from there?

A And the total Pipe Line Department payrolls, which forms 18. something per cent of the whole adjusted payroll approximately......

THE CHAIRMAN: Just there. Do you question the correctness of that percentage?

A No.

Q MR. NOLAN: No. For the moment I am asking you, Mr. Maw, to assume if you will please, that Mr. Morrison's method is correct?

A That is rather a large order.

Q But for the purpose of applying it, you of course do not agree with it, but can you not for the moment assume that it is correct. Or do not assume, as you like?

A No, I do not think I would like to assume that.

Q Well we do not assume it is correct.

Q THE CHAIRMAN: Just in passing, while I think of it, is the 18% all right?

A On his basis, yes. That is you mean mathematically correct, or worked out correctly?

Q Yes?

A Yes, it is undoubtedly.

Q MR. NOLAN: Well assume it is correct to that extent at least?

A Yes.

Q Where do you go from there?

A The pipe line payrolls making up in total this 18 and some odd per cent consists approximately of, in this particular period, 60% men employed on capital expenditures and 40% men employed on operating the Pipe Line Department, and therefore, the logical conclusion would be that to the extent of 60% of this $42,900.00 some odd dollars - $42,922.76, a proportion of the utility expense and service units and administration and general expense, 60% of it will have been allocated to capital expenditures, leaving 40% of it to be allocated to operations.

Q You say will have been allocated to capital expenditures, by whom? How?

A On the basis of making up the payroll.

Q Yes?

A Now Mr. Morrison has allocated the whole 18% to operations, whereas 60% of the $42,000.00 on the basis of his payroll should have been allocated to capital expenditures, and following it out to its logical conclusion, would have been in actual practice capitalized, thereby increasing the investment and reducing the operating cost. Now before I go any further with that, I would like to say this, that I have reviewed the evidence which Mr. Morrison gave in respect of the application of this percentage, and the impression that I got from his evidence was that

he was quite aware of this feature, which I am describing to you, that 60% should theoretically go to capital. But although he was aware of that feature of it, in his opinion it was not necessary to carry it to its logical conclusion, that it had arrived at what he considered to be a fair basis, and it would be all right to forget the future logical carrying out of the system and applying it, apply the whole of the 18% to operations.

THE CHAIRMAN: When you get to a labour basis as a yardstick or measure?

A Yes, exactly, that I think is what Mr. Morrison had in mind. But I think that the distinction is very important, because if the yardstick or measure cannot be carried to its logical conclusion, without giving a very distorted result, then it ceases to be a scientific method of applying the overhead and becomes, in effect, an estimate or a guess. I hope that Mr. Morrison has realized that I am making these remarks with all due respect. That I think is the main difference between us. That in his opinion it is not necessary to carry the application to its logical conclusion, that he has at this point arrived at a satisfactory basis for allocating the indirect expenses.

And I cannot concur in that opinion if it be his opinion. I think the fact that it can only, by carrying it to its logical conclusion, that it gives a very different result from what appears on this statement, is sufficient to rule it out as being a system which should not be applied at all.

Q THE CHAIRMAN: Carried to its logical result as you say, it should be, in order to be a worth while yard stick where would it bring you?

A I have, if you would like me to present it, a calculation of these same figures showing where it would bring us in this particular period and I would then later in general terms apply that result to the whole period covered by Mr. Morrison.

Q MR. NOLAN: And that, Mr. Chairman, will be Exhibit "119".

THE CHAIRMAN: Yes.

(STATEMENT PRODUCED BY THE WITNESS WAS HERE MARKED AS EXHIBIT "119").

WITNESS: Would you like me to go through this.

THE CHAIRMAN: Yes.

Q MR. NOLAN: Now, Mr. Maw, take Exhibit "119"?

A This is a calculation showing the distribution of indirect expenses for the nine months ended September 30th, 1938, as between operating costs and capital expenditures on the basis of pipeline department's payrolls for that period as they would have appeared on the books had the company adopted Mr. Morrison's basis of distribution and closed its books before Mr. Morrison commenced his examination of the books, in other words this is carrying out to its logicol conclusion, instead of stopping short at the point where Mr. Morrison considered

that he had arrived at his basis, the total payroll applicable to pipeline department, capital expenses and operating, both $107,063.30; payroll applicable to pipeline department operation $42,886.86; 40.06%, Payroll applicable to pipeline department capital expenditure $64,176.44, 59.94%.

Q Now just a moment, that means to say that the total payroll of the pipeline department including capital expenditures and operations is $107,000?

A That is correct.

Q Divided up into these two proportions of 40.06% and 59.94%, all right, now what is the next step?

A The next, we take the figure of $42,922.76, appearing as the proportion of indirect expenses as per statement No. 21 of Mr. Morrison's report.

Q Now that is the figure which you and I have just discussed, on page 21 of Exhibit "88"?

A That is correct.

Q $42,922.76?

A Correct.

Q Which has nothing to do with that 42 thousand figure up above?

A No, no connection.

Q THE CHAIRMAN: Where do you get it?

A $42,922.76?

MR. NOLAN: From page 21.

A From page 21 of Mr. Morrison's report, that is the figure which has been allocated to the pipeline department's operations by applying the 18. something percent to the total indirect and administration expenses.

Q You are not questioning the 18% at the moment, are you?

A No.

Q And you are not questioning the $42,922.76?

A No.

Q No, all right.

A On the basis of applying administration and indirect expenses to capital expenditures, of that $42,922.76, 59.94% or $25,728.98 would have been allocated to capital expenditures with the result that there is only $17,193.78 of these indirect expenses left to go against profit and loss account and operating costs. The total charge against these earnings of the nine months ended September 30th, 1938 would then be $17,193.78 to operating costs, plus amortization of $25,728.98 added to our capital expenditures and for the purposes of this example amortization on the basis of 5 years from January 1st, 1939 forthe half year, being consistent with the policy of amortizing the additions for the period for one-half year during the year in which they were acquired, we would get three-quarters of 111, which would be 5½ years, 5½ years accounts for the 111, three-quarters of 111, of $525,728.98, would be amortized of these capital expenditures, to be charged to profit and loss during this period, making $1754.55, or a total charge to operations in place of $42,922.76, of $18,948.03. Now that is following to its logical conclusion the basis in the distribution of indirect expenses as set out in the method employed in Mr. Morrison's report and as I say instead of following it to its logical conclusion Mr. Morrison has charged the whole $42,922.76 to operating expenses and has thereby arrived at an operating figure of expenses for the period which he considers to be fair and reasonable. Now if the logical carrying out of this system produces a charge of $18,948.03 to operations for the period, then one or other of those figures cannot be fair or reasonable.

They are too widely apart, so that is why I say that, although I am quite sure, after examining the evidence, that Mr. Morrison was very well aware of this feature, he considered it to be unimportant and I consider it to be very important because his basis is no longer a scientific basis nor is it any longer founded on facts, therefore, it is at best an estimate or a guess that is what I mean, Mr. Nolan, when in reply to the question which you asked me---

Q Yes, now if I understand you, Mr. Maw, you say that Mr. Morrison in order to carry through his method should have taken the $42,922.76 shown on page 21 of Exhibit "88" and distributed that as between the capital expenditure payroll and the operations payroll?

A Yes.

Q Then if you are right about that and there should only be a charge to operations of $18,948.03, instead of $42,922.76, the same criticism would apply to every statement of Mr. Morrison's, for each of his years.

A That is correct, although of course the percentages would not, of necessity be 40% and 60%.

Q No, they would be what the fact was?

A Exactly.

Q And we are anxious that this method of accounting which we used should be based on the facts?

A That is right.

Q And if John McLeod's salary is charged, in part, is any of it charged on the facts, to capital expenses, the capital expenditure?

A Yes.

Q You are of the opinion that when you get down to the pipeline department the proportion of that cost of $42,922.76 should be

charged as the facts would indicate, namely to those people engaged on capital expenditures?

A That is the logical outcome of this method and it will be quite apparent that if this method were followed to its logical conclusions and if each of these four years and nine months' operations were adjusted in the same manner that I have shown the adjustment of 1938, we would at September 30, 1938 arrive at a much larger capital investment, a very much smaller operating cost, with secondly a larger profit for the period and a very different rate of return from the one shown on Mr. Morrison's presentation. They cannot both be right, this one which we now have and the one which has emerged from the application of the system, they cannot both be fair and reasonable.

Q Am I right in saying that, taking Mr. Morrison's basis and applying it throughout to the end you would necessarily arrive at a figure of $18,948.03 instead of $42,922.76?

A Yes.

Q And what you are saying is that Mr. Morrison stopped at a point and did not go on in the pipeline department, to distribute his figure of $42,922.76 on page 21 of Exhibit "88" to the capital expenditure payroll and the operations payroll, as he did in the first instance when he applied his basis to begin with?

A That is correct, that is right. He did that and I think his evidence bears out that he did it deliberately, that he considered---

Q Oh yes, no question about that.

A That at that point he had arrived at a satisfactory basis.

Q Yes.

A My own opinion is that the basis had not been arrived at then.

Q Or a conclusion had not been arrived at?

A A conclusion had not been arrived at.

Q Let us not use the word "basis".

A And I think that is the only criticism if, I would not perhaps even go so far as to call it a criticism.

Q A difference?

A A difference of opinion , between Mr. Morrison and myself. On his evidence it is not necessary to carry it to its logical conclusion. In my opinion it is, as only in that way can you get a true picture of the facts.

Q And the fact is that 60% of the men on the pipeline department are engaged on capital expenditures roughly?

A Yes.

Q 40% are engaged on operations?

A That is right.

Q Roughly and that to carry through the method as adopted by Mr. Morrison there should be a redistribution again of the $42,922.76 appearing on page 21 of the report for the year 1938?

A That is right.

Q All right. Now one more thing, Mr. Maw.

Q THE CHAIRMAN: Mr. Nolan, I do not fully appreciate, so long as it is just a yard stick, mind, now---

MR. NOLAN: Yes.

THE CHAIRMAN: What it matters whether it carries through logically or not, there may be a good reason.

MR. NOLAN: What this witness is endeavouring to say Mr. Chairman is that taking Mr. Morrison's yard stick we have not carried it through, we have stopped short.

THE CHAIRMAN: Yes.

MR. NOLAN: Then we find $42,000 charged to the pipeline department exclusively against operations and if the

yard stick is to be used as a yard stick, you measure right all down the line, right into the pipeline department and when you get in there you find you are again meeting that amount of capital and amount of operation, and then this witness says you should take your $42,000 figure and distribute it again on the amount in the capital expenditures and as against the amount in operations and not leave it suspended as it were against operations alone.

WITNESS: That is right. I feel unless a thing is carried to its proper conclusion it ceases to be anything more than an arbitrary guess or estimate.

THE CHAIRMAN: As a measurement value?

A As a measurement value.

Q MAJOR LIPSETT: If you carried it through then, Mr. Maw, to its logical conclusion as you point out, what would the effect have been on the costs of operation in that nine months?

A That would have been very much lower, they would be very much lower.

Q MR. NOLAN: Why?

A They would be so much lower that they would be absurd, at an absurdly low figure.

Q MAJOR LIPSETT: Have you the figure?

A Yes, the amount by which the indirect operations would be reduced would be $23,974.73, the figure of $42,922.76 would be reduced by $23,974.73 to $18,948.03, a reduction of consierably more than 100%.

Q MAJOR LIPSETT: How much per barrel in that period would that reduce the cost?

A Oh, per barrel?

Q Yes.

A I have not made the calculation per barrel.

Q MR. NOLAN: It would not be very much per barrel?

A It would not be very much per barrel.

Q Because all the indirect costs are in there at per barrel.

Q MAJOR LIPSETT: No, but while you are putting it forward as a criticism of this theory, as I understand you?

A I am putting it forward if I may.

(Go to No. 3097)

[illegible] made the [illegible] for per [illegible]

It [illegible] not [illegible] very [illegible] per

[illegible]

It would [illegible] very much [illegible]

because [illegible] costs [illegible] there [illegible]

So, [illegible] you are putting [illegible]

[illegible] this [illegible]

[illegible] forward [illegible]

Q As to his method?

A With the suggestion that as it fails to measure up that we should look for another method to which the same criticism could not be applied.

Q But if it does stand up and possibly prove out to be right, you say if it was carried out then to its logical conclusion, as you have done in this item here, the effect would be to reduce your cost of operation per barrel in 1938, would it not?

A It would, but I cannot subscribe to it being carried out;

Q No?

A Because you would then have the effect of reducing your normal administration charges chargeable to operation for the year by a very, very large amount.

Q To a figure which you would consider quite unreasonable?

A Exactly.

Q MR. NOLAN: What do you mean when you say that this is the manner, Exhibit "119", in which these figures would have appeared on the books, you are assuming that the company has adopted Mr. Morrison's method?

A Yes.

Q For the purposes of this friendly criticism?

A Yes.

Q Then you say that the bookkeeper, the bookkeeper?

A Yes.

Q Applying Mr. Morrison's method must have arrived at the result at which you arrive?

A That is correct.

Q And that is the way it would appear on the books if the books had been kept according to this method of Mr. Morrison's?

A And if the basis of distribution were carried out to its logical conclusion.
Q Yes?
A The bookkeeper could, of course, have stopped short where Mr. Morrison did.
Q In not applying his theory throughout?
A In not applying his theory.
Q Throughout?
A Throughout.
Q Now, if the bookkeeper had left that $42,922.76, as it is left on page 1 of Exhibit "88", would not the bookkeeper himself have to go through and do something with that figure of $42,000.00?
A He would have arrived at the stage where this $2,922.76 would all be chargeable to the pipeline department.
Q Would he not have to go on and distribute that?
A Yes.
Q As between capital and operation?
A Exactly.
Q Had he any alternative?
A No. Well, let me qualify that "no", he could still have charged it to operation, but he would be inconsistent and incorrect so to do.
Q Supposing that some accountant, Mr. X , says to the Royalite bookkeeper "Here is the way to distribute your indirect costs"?
A Yes.
Q "My basis is this basis"?
A Yes.
Q Could he have stopped where it stops in Mr. Morrison's report?
A No.

Q He would have had to go on?

A Exactly.

Q And do what?

A And distribute the $42,922.76 in the amounts which I have shown on Exhibit "119", $17,193.78 to operating costs, and $25,728.98 to his capital assets account.

Q Yes, and that would make a very great difference in all of these earlier years of Mr. Morrison's report?

A It would.

Q Now, Mr. Maw, turning to Exhibit "116", and that is the Exhibit which shows the cost per barrel after providing for income tax and the return on invested capital, at various rates, do you remember that Exhibit?

A Yes, I do.

Q Have you anything to say about these figures of 11.53 and 11.36 on the basis of 20%, or any other figure?

A Yes, but before doing so, Mr. Nolan, may I file with the Commission additional statements which they asked for?

Q Yes, what we are going to do now, if we may, please, is to arrive, or rather to present to the Commission a calculation based on the period taken by the Price, Waterhouse people, namely, the 31st of December, 1946, the calculation which will be made on the same basis as Exhibit "116", which takes this arbitrary, 5, 10, 15, 20, 25 and 30 year period, where is it, Mr. Maw, is it prepared?

A Yes, it is.

(Document produced by Witness here marked as Exhibit "120".)

WITNESS: This statement has been prepared at the request of Major Lipsett, to complete the presentation

[illegible]

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on the basis of our Exhibit "100", eight years from January 1st, 1939, Our Exhibit "100" dealt with them amortizing the assets 100%, and this statement has been prepared on the same basis.

Q Yes, and it is to bring it into line with Exhibit "116", it is additional to "116"?

A It is additional to "116".

Q Then, will you explain it?

Q MAJOR LIPSETT: Is that with or without salvage?

A This is without salvage.

Q MR. NOLAN: Now, will you explain it?

A On the basis of 100% amortization of investment by December 31st, 1946, that is eight years from January 1st, 1939, the invested capital will be $1,148,378.79, taken from Exhibit A of the general presentation, Exhibit "100" in the column headed "September 30th, 1938".

Q Yes?

A The investment was $1,148,378.79. On Exhibit C8 the cost per barrel on the basis of amortization over the eight year period from January 1st is 6.52¢ per barrel.

Q Yes?

A That cost, after providing for income tax and a return on the invested capital at the rate following gives the answer in cents; 10% return on investment 8.93¢; 12%, 9.53¢; 15%, 10.14¢; 17½%, 10.74¢; 20%, 11.34¢.

Q Well, now, looking at Exhibit "116", you say you have some comment to make on these cost figures per barrel at the varying rates of return on investment?

A In arriving at the varying rates of return on investment, the varying rates which would provide varying returns on the capital, we can only include in a statement of that kind figures which are in the books or have been in the books,

It must, in fact, be based on our presentation and the fact that we have taken them from the books, so that, in my opinion, it is not a conclusive figure on which to base a rate because it can be affected by so many considerations which do not appear in the books at the present time.

Q THE CHAIRMAN: For example?

A For example, the necessary annual increase in amortization rates for the period from now looking to the future, and the probability of increased operating costs for the future. This statement has been prepared on the figures for the nine months ended September 30th, 1938. During that period the operation was an extremely successful one, no major disasters occurred. We have been given evidence that the pipeline was well and economically operated. We cannot, therefore, look for any reduction in operating costs, and we know that in the future we must look for an increase in operating costs. Therefore, that is one reason why I say that with Exhibit "118"......

Q Exhibit "116" you mean?

A Only tells part of the story. You cannot look at that statement and stop and say "There is our rate."

THE CHAIRMAN: Are you referring to Exhibit "116"?

Q MR. NOLAN: Exhibit "116", that is the one which we worked out on the different rates of return on investment, the long statement, sir, and the figures, if you will remember, sir, come out at 11. something cents?

A 11.5 something cents at 20%.

Q It was 11.5 something cents all across the page?

MAJOR LIPSETT: At 20%.

Q MR. NOLAN: At 20%.

A At 17 it was 10 something all across the page, and at 10% it was 9, it varies, 9, 8 down to 8.

Q MAJOR LIPSETT: That Exhibit "106", Mr. Maw, was after taking off 10% salvage or allowing 10% for salvage in the periods 5, 10 and 15 years and 5% for salvage on the 20, 25 and 30 years?

A That is correct.

Q Well, is there any reason why Exhibit "119" is not made up on the same basis, allowing for the salvage?

A "120"?

Q Exhibit "120"?

A Yes, I was asked to prepare Exhibit "120" on the basis of our Exhibit "100", in which we allowed for the return of the entire investment without salvage, but in that respect I might say that to have prepared that and brought in the salvage figures would have entailed a very long calculation for an extremely small difference in the result. I applied one or two tests to the figures with a view to seeing if I could find out how much difference in the rate the salvage would be, and without any absolutely mathematical certainty I came to the conclusion that an adjustment for salvage on this would at 10% make a difference of about .07¢, and at 20% a difference of .02¢. Those figures are not mathematically accurate. A calculation of the exact ones would be a matter of two or three days' work.

Arthur Maw.

Q MR.NOLAN: In other words, this new Exhibit "120" is founded upon the basis adopted in your report?

A That is correct.

Q Are there any other observations you want to make in respect of Exhibit "116"?

THE CHAIRMAN: While Mr. Maw is in the box, are there any other things that were asked for?

MR.NOLAN: We were going to make a calculation, do you remember, on that 43%?

A Yes.

Q Did we do that?

A I have not got that prepared.

Q Just explain if you will please, to the Chairman, what that calculation was, because I have forgotten?

A I will need Exhibit "110". We were asked for a figure comparable to the percentage shown on Exhibit A of "100".

Q What?

A We were asked for a figure comparable to the 41.99% of return shown as for the year ending December 31st, 1937?

Q Yes.

A But taking into account salvage values instead of amortizing to 100%. I have not got that figure prepared yet, but I can show you approximately what the difference will be. It is very small.

Q Is there any difficulty about the preparation of these figures, to begin with?

A No difficulty beyond the labour involved.

Q And what is that labour? Give the Commissioner some idea of what will be needed?

A It will be necessary to recalculate on an 8 year basis

the difference in amortization due to amortizing to 100% that part of the cash investment which is no longer represented by physical assets, and amortizing to 90% only that part of the investment which is represented by assets still in use. The result as I say is very small, but it entails a long calculation. If I might give you an example. Referring to our Exhibit "110". Take Exhibit A and Exhibit C of "110". In the year 1937 on a 30 year basis. That is the bottom line.

MR. COMMISSIONER LIPSETT: Which exhibit, Mr. Maw?

A Exhibit "110", Exhibit A and C, comparatively.

MR NOLAN: The 5, 10, 15 and 20 year report, Sir. The witness is asking you to be good enough to look at Exhibits A and C of that.

A On Exhibit A in the year 1937, on the bottom line, the 30 year basis, we show a rate of return of 35.39% on the basis of amortizing the whole investment to 100%. On Exhibit C the comparable figure is 35.18% on the basis of leaving in a salvage value of 5%. The difference in the rate of return on the 30 year basis is .21% and similarly on the 5 years' basis, where the difference is largest, it is 1.88%. Therefore, it will follow that on the 8 year basis the difference will be somewhere between 1 and 2%. The figure of 41.99% will probably be just about 40%. I will have the exact calculation prepared if you consider it necessary.

THE CHAIRMAN: Is it brought down to a barrel of oil, Mr. Nolan?

MR. NOLAN:- No. This was the rate

of return that would be shown by these different bases of amortization. It is the rate of return figure we are discussing is it not?

A That is right.

MR. NOLAN: The question the witness puts is whether the Commission thinks it necessary for him to make the calculation, which, of course, can be done, realizing that it will of necessity be only a variation of less than 1.88% and will be in the proximity of 40% instead of 41.99%?

A That is correct.

Q That is approximately correct?

A Yes.

MR. COMMISSIONER LIPSETT: It is the percentage of return, but I suppose what we will ultimately have to get down to will be the rate per barrel of oil which will flow from the various percentages?

MR. NOLAN: Yes, that is so.

MR. COMMISSIONER LIPSETT: That is why I find some difficulty in following Exhibit "120" which is on a different basis from "116"?

A Yes. That is so. To put "120" on a comparable basis to "116" would involve the same calculation. That is I could get both results once the job were done. But we were not, as a matter of fact, asked yesterday for the 8 year basis with amortization, but only to carry out our own presentation in which 100% of the investment is amortized, That required very little labour. We already had....

Q What I had in mind, perhaps I did not make it clear, but what I had in mind was that you carry out this

Exhibit "116" so as to give us the figures to 1946, on which Mr. Taylor was acting all through?

A That is what I have given you on "120".

Q Except that you leave out the salvage, which I think Mr. Taylor I understood proposed should be 10% if it was not to exceed 15 years of life, and 5% if it was over 15 years.

A On our present presentation we amortize our investment in full. So to carry that out this was done on the same basis that it was in respect of this one, that I said a few minutes ago, I had made an approximate calculation showing the difference as .07 cents at 10% and .02 cents at 20%. The rate of return allowing for salvage on these two figures would be larger, at 20% by .02 cents, making it 11.36 cents in place of 11.34 cents, and at 10% about .07 cents, making it 9 cents in place of 8.93 cents. Those are approximate calculations which I do not think can be wrong by more than .01 cents.

Q Now is it not the other way?

A Allowing for salvage we will get a larger return.

Q Yes.....

A No, just one moment. Perhaps I have corrected these the wrong way.

Q If you look at "120" it would help?

A It cuts both ways.

MR. NOLAN: This is "120". Have you got it before you?

Q MR. COMMISSIONER LIPSETT: Just take the first one. You see the cents per barrel would be 8.93 cents, but if you allowed for salvage would not there

be .07 cents to come off that, making it 8.86 cents?

A Let me look at that. If we make an allowance for salvage any amortization charge would be less and the costs would be less. That is correct. So that would make it 8.86 cents. As a matter of fact, that applies only in the 10%. I am not quite sure of that because I when I was making these calculations I found there are three influences bearing on this. The income tax adjustment is one. When you are getting 20% on your money you are paying more income tax than when you are paying 10% on your money. That was one factor. And the difference in amortization was another. I think if you would allow me to, I would prefer to look at my work sheets on that. I do remember that the 11.34 became 11.36. Again, they are only very approximate calculations.

MR. NOLAN: What may we do to assist, Mr. Commissioner Lipsett. Would you like us to make another calculation to bring Exhibit "120" into line with Exhibit "116"?

MR. COMMISSIONER LIPSETT: What I had in mind, Mr. Nolan, was this, if Mr. Taylor does not accept salvage, that no salvage should be allowed, then "120" is correct, but "116" does not bear out his case. If, on the other hand, Mr. Taylor accepts the salvage basis of 10% on from 5 to 15 years, and 5% afterwards, then Exhibit "116" carries along on his case, but Exhibit "120" does not. I do not know which he accepts. I was trying to get his company's case carried to its logical conclusion in cents per barrel.

Q MR. NOLAN: Exhibit "116" takes in salvage, does it not, Mr. Maw?

A That is correct.

Q And Exhibit "120" does not?

A That is correct.

Q And our report......

A Does not take in salvage. In our report we base our calculation on amortization of the entire cash invested.

Q THE CHAIRMAN: What I would like to know is, making the very best of your own evidence that you can, and given by whomsoever it was given, will you tell us what the case which you present resolves itself into in cents per barrel as a proper return, a proper rate?

A 11.34 cents per barrel, subject to the consideration which cannot be reflected from the books alone, that is, an increase of expenses in the future. But on the basis of the figures taken from the books, on our own period of eight years from January 1st, 1939, and allowing nothing for amortization and to give us a 20% return on our money, 11.34 cents per barrel.

Q Allowing nothing for amortization, what do you mean by that. At the end of your term you were going to be paid off?

Q MR. NOLAN: Nothing for salvage, you mean?

A Yes, nothing for salvage I meant, I beg pardon?

Q THE CHAIRMAN: But fully amortizing it?

A Fully amortizing it.

Q And allowing you 20% besides for profit?

A 20% profit on the investment which we now have.

Q And over and above the moneys necessary to amortize?

A That is so.

Q When you have got all that back you get 11.34 cents per barrel?

A In this year of 1938 where the operation is so good.

Q MR. FRAWLEY: Plus the value of the salvage?

A Plus the value of the salvage, if any.

Q MR. COMMISSIONER LIPSETT: And plus the whole company, if it is still carrying on, plus the whole capital assets?

A It is on the basis of the assets being no good after December 31st, 1946.

Q On the basis that it ends and everything is closed down in December, 1946?

A That is right.

MR. NOLAN: What I am not very clear about is, is there any other calculation we may make which would be of assistance and informative?

MR. COMMISSIONER LIPSETT: What I had in mind and what the Chairman just mentioned is, we would like the case as presented for the Royalite to be finally given to us in a rate per barrel. Mr. Taylor was to give us his considered opinion about the rate of return, having regard to the hazards and the present position of the company. Mr. Maw is still on the 20%, which may or may not be the figure that Mr. Taylor himself gave us as his considered figure, but whatever it is they may also have some views as to whether or not there should be any salvage allowed in 1946. But whatever the final view is that they are putting to us now, translate that figure into cents per barrel so as to get an exact rate which would flow from the case they have presented.

MR. NOLAN: Which would be only a rate which would flow from the case we have presented on the figures up to the present time.

MR. COMMISSIONER LIPSETT: Up to the present time, or to the end of December, 31st, 1938?

MR. COMMISSIONER LIPSETT: It may be just what I asked for.

Q MR. NOLAN: I would like to find out what difference it makes whether you put salvage in or leave it out?

THE CHAIRMAN: Theoretically, there should not be any difference. If you leave it out you bring in something to get the co-efficient of it.

Q MR. NOLAN: Why is there a difference there? You see what I am getting at?

A I would say offhand that the difference is that you get your.....

THE CHAIRMAN: What has become of the undertaking, if it should be some good at the end of 1946 and you have all your money out?

A That is a calculation we did not make.

Q Should it not be taken into consideration?

Q MR. NOLAN: Should we use salvage or should we not?

A There is a difference.

Q First, should we use it or should we not?

A For the purposes of this calculation, no;

Q What calculation?

A The calculation we put on in Exhibit "100".

Q Why not?

A Because we explain it is only a calculation.

Q I know, but everything is a calculation?

a On page 4.

Q Yes?

A "This calculation does not presume to measure the life of the field but is merely a calculation over what we consider a reasonable period of years; therefore, has no winding-up

is contemplated salvage value has not been considered."

THE CHAIRMAN: The reasonable period of years in which to get your money back as put by Mr. Taylor.

MR. NOLAN: Yes.

Q Then why don't we have any provision for salvage at the end of that time? The thing is there. It has not evaporated?

A It is a calculation which does not contemplate winding-up.

Q You are going to be 100% amortized then?

A Yes.

Q Then who owns the pipeline, are you giving that back to the Province?

A No.

Q MR. NOLAN: Is the Province giving it back to us?

A I find what it is worth is the property of the company, for what it is worth.

Q THE CHAIRMAN: For what it is worth?

A If the field were dead and you had to put a gang of men to work to take up that pipeline......

Q Why do you care about the field, dead or alive? You have not taken that into account at all. Your principal does.

A But on the question of salvage it very often happens that the salvage is not worth salvaging. It costs more to salvage it than it is worth.

Q But in 1946 your Mr. Taylor says "I do not consider the life of the field at all. That is the period of time which I, as a business man, say is reasonable within which to get back all my money."

A That is right.

Q But if you get back all your money and there is a pipeline down there in 1946 that is good for another twenty years, and useful for that time, what then? Would you treat that as though it was then done, at least in this calculation?

A It would stand me nothing. I would have it without any cost to myself.

Q MR. NOLAN: Does Mr. Morrison amortize to 100%?

A I think not.

Q Because of the salvage figure?

A Because of the salvage figure.

Q What I want to know is, what is the difference between amortizing 90% with 10% salvage, and amortizing 100%, if there is any?

A I think the difference is that in amortizing 90% you get your remaining salvage, not as a rate of return as you go along but in a lump sum at the finish. Whereas if you amortize to 100% you get it year by year.

Q THE CHAIRMAN: Is there not another difference, Mr. Maw, Mr. Morrison's salvage basis is predicated upon a theory of the determination of the life of the field and the 10% salvage is successively in that line. He has taken different lives and figured it and given a different rate of salvage for different periods of time. You do not care for the life of the field at all in this calculation?

A In this calculation, no.

Q Not at all?

A No.

Q And you end up with a line complete?

Q MR. NOLAN: Didn't you make a calculation on

[illegible]

these various lives of the field?

A Yes.

Q Without or with salvage?

A Our Exhibit "116" allows for salvage. That is where we do presume to measure the life of the field.

Q THE CHAIRMAN: But you made that calculation to be comparable with Mr. Morrison's, at the request of the Commission?

A That is correct.

Q And you are merely doing graciously some work for us? It does not change your position. But regardless of the life of the field, in 1946 you would have all your money back, plus whatever profit may be right, and the whole line, for what it may then be worth, for nothing?

A That is true.

MR. NOLAN: Well, now.

Q MR. COMMISSIONER LIPSETT: In fact, on your rate of interest you get your money back 100% in eight years, amortization?

A In eight years?

Q Yes, till 1946, from now?

A No, it would be 21 years from the first beginning.

Q But within the next eight years?

A Yes?

Q Apart from anything that you have gotten in the past, you get your whole capital back 100% by 1946?

A The money which I have invested in the past will be returned to me by 1946.

Q And on top of that on the basis of 20% per annum you will have 160% - eight years at 20% - 160% on that money?

A Yes.

Q And on top of all that in 1946 you will have the line back in full together with every addition that you make to it

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in these next eight years?

MR. NOLAN: No.

A May I refer back again to something.....

Q MR. COMMISSIONER LIPSETT: Could you just take it, if those are the facts, first of all, your whole capital back 100% ?

A I have to-day invested a capital on this basis of $1,148,378.79. That is my net capital after taking off the reserve which I had provided out of these past years. Now, to get that back by 1946.

Q Yes, 1946, you are getting 160% on that in addition to the $1,100,000.00?

A If I earn it I am getting 20% each year, which I may disburse in dividends, providing it is earned.

Q And we are to fix a rate that will earn it for you, is not that what we are asked to do if we accpet your evidence we must fix such a rate as will give you 160% of this to-day's capital by December, 1946?

A Would you also guarantee earnings in fixing the rate?

Q We must make our best endeavour to fix a rate, if we accept your evidence, that will give you that 160% back by December, 1946.

MR. NOLAN: Do we get the 160% in our pockets?

MR. COMMISSIONER LIPSETT: Yes.

A We should get the 20% per annum in our pockets.

Q MR. NOLAN: And what do we do with it?

A We can do what we like. Probably we will have to soak it back in.

THE CHAIRMAN: And in addition whatever the line is worth at the end of 1946.

A If it is worth anything it is ours.

Q MR. COMMISSIONER LIPSETT: In this rate too, Mr. Maw, we provide in income for repairs and renewals, which, according to Mr. Hill's evidence, to us, practically kept the line as good as it was during the last thirteen years and presumably will keep it as good for the next eight.

A That is true. It will still be good when it is no more in use.

Q Still be good as, practically, it is to-day, when we come to the end of 1946, as far as the pipeline is concerned?

A That is too technical for me. That is more of an engineer's job. Theoretically, we will keep it in sufficiently good shape that it can operate successfully.

Q Then if the life of the field goes on for another ten or twenty years after that what should happen?

A Then December 31st, 1946, was presumably not the right date on which to base this calculation.

Q And would you say to the Province or to anybody, "Well, you have given us a rate which has given us all our pipeline back and all this interest back in 1946, well, here is your pipeline back now, and Good Luck to you."

A I think if the field were completely at an end, and no more oil could come over it, we would not be interested in the disposition of the pipeline.

Q But supposing the field was going on as it is, or double, what would your position then be. Perhaps, that is scarcely a question I should put to you, Mr. Maw?

A I think the answer is self-evident.

Q THE CHAIRMAN: We own the line?

A We would own the line.

Q MR. NOLAN: I am still not quite clear about what we might do to assist. I may be stupid about this but if you would not mind putting it to me again, Mr. Commissioner Lipsett, so I can get it on the record. If there is a statement - or have you done that? It is on the record?

MR. COMMISSIONER LIPSETT: I think it is, Mr. Nolan. What I think was in my mind, and in the minds of both of us, was, that we would like the evidence, whatever your final evidence is, as to salvage rates and everything else, but a rate of return, we would like that translated into a figure at a rate per barrel.

MR. NOLAN: With or without salvage?

MR. COMMISSIONER LIPSETT: According to what you say.

THE CHAIRMAN: Have you given any further thought to that Loop question we were at at noon?

Q MR. NOLAN: About the Loop, Mr. Maw?

A Yes, I did.

Q Now, to go back a moment.....

THE CHAIRMAN: Indeed, you have well nigh convinced me you cannot have that $386,000.00. Now, you might tell me what you think about us giving you back a bit of Loop?

A I decided I would, taking everything into consideration, be of the same opinion with regard to the hypothetical question you put to me, as I am of the 6-inch Loop. That the capital value of the cash invested in the asset purchased, if it were prudently and wisely spent, should be taken into account in arriving at the capital value on which to base the rate of return.

Q Why, if it is not there. Why, from the standpoint of the person who is paying the money for a service, why should

[illegible]

he pay for service over a line that is non-existent?

A Because he is going to pay a rate which must return to the man who put up the capital a fair return on his investment.

Q He is paying for a service through a pipeline. He does not care what you invested, this other fellow. He is paying for service through a pipeline. Should he be required to pay for service through a pipeline that has been pulled up? I can see the force of you saying "Well, I made an honest effort and I was prudent in my investment and I should get it back." But I have difficulty, subject to conviction, of course, ...

A If you do not give it to me back I will incur such a large capital loss that you will have to take that into account in fixing the rate which I am to receive. So that it is really as broad as it is long.

Q You say that a rate should be fixed as will take care of not only a proper return on the moneys invested in capital assets, which you have, but also in capital assets which you have lost?

A That is so.

MR. FRAWLEY: My friend could help me very much by having his witness point out the parts of Mr. Morrison's evidence to which he refers. Just to have them on the record.

A I think it is page 2680.

Q Just that one page?

A That is all.

Q That is all you want us to refer to?

A That is right.

Q It is on that you base your criticism of Mr. Morrison's

evidence?

MR. NOLAN: And if there is any other evidence some other place where he mentions the same thing, it is there too.

A That is the evidence I was referring to. There it is at page 2680.

THE CHAIRMAN: What about Mr. Taylor, Mr. Nolan?

MR. NOLAN: I wonder, my Lord. You did suggest this morning that we might sit a few minutes later this evening. There are two things Mr. Taylor would like to mention to the Commission. One is this question of the rate of return and the other is a calmulation which he has made in the increase in the costs of drilling wells from year to year. It would not take very many minutes. I do not think the cross-examination would take very long.

MR. FRAWLEY: I cannot give you any assurance about that. I do not know what he is going to say.

THE CHAIRMAN: Is Mr. Taylor going away to-night?

MR. NOLAN: That was our intention, sir, and our hope.

(After further discussion it was agreed to adjourn until 10:00 A. M. January 28th, 1939.)

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta JANUARY 28th, 1939

VOLUME 25

28th January, 1939.
10:00 A.M. Session.

JAMES WATT TAYLOR, having been recalled, examined by Mr. Nolan said:

Q THE CHAIRMAN: Are you anxious to get away to-day, Mr. Taylor?

A If possible.

Q MR. NOLAN: There remains, Mr. Chairman, one or two matters for discussion by Mr. Taylor before the Commission. You have made an additional calculation, Mr. Taylor, in respect of the increased percentage, of well drilling costs one year over the other?

A Yes I have.

MR. NOLAN: Perhaps I should explain, sir, that Exhibit "112" which is headed "Movement in Administrative and Indirect Costs and in Payrolls Chargeable to Capital Expenditures", Exhibit "112".

THE CHAIRMAN: Yes.

MR. NOLAN: If you have that before you, sir, you will find that the change which is made in the new Exhibit which we are tendering is only by the addition of one line.

THE CHAIRMAN: It is Exhibit "112" with one line added?

MR. NOLAN: Yes, and if I might tender now this new Exhibit.

(STATEMENT PRODUCED BY THE WITNESS HERE MARKED AS EXHIBIT "121").

THE CHAIRMAN: This is the same as Exhibit "112", Mr. Nolan, with one line added?

MR. NOLAN: Yes, sir, and that line is the last line and the line itself is entitled "Drilling Payroll", being

the last line on the page and that is the only addition, Mr. Taylor?

A Yes, that is the only addition and the addition of the percentages.

Q I mean that last line?

A That is the only addition to "112".

Q Now what is the purpose of drawing the Commissions' attention to this drilling payroll item?

A When I was being cross-examined by Mr. Frawley day before yesterday he talked of the increase in the indirect costs and he pointed out that they had travelled between 1936 and 1938, and he gave me the impression that he was laying that all at the door of the additional drilling of wells, more activities in drilling wells. I already had prepared the study I have made as to whether or not the capital expenditures fluctuate the indirect costs and in order to, and in my previous Exhibits, the drilling payroll was included with the other capital expenditures and I thought in order to bring out more clearly the manner in which the drilling payrolls as compared with how the indirect expenses fluctuated, I should prepare this new statement showing the position in connection with the drilling operations by themselves.

Q THE CHAIRMAN: Primarily to show the fluctuations?

A Primarily to show the fluctuations in the drilling matched against the fluctuations in the administrative and indirect costs or the overhead costs, so that if we take the controversey between our basis of spreading overhead and the basis adopted by Mr. Morrison, the main controversy seems to be in connection with drilling wells, which is the one which Mr. Frawley followed through with me in cross-examination. Now if I could ask you to look along the column with the two

little red crosses added, just about the middle of the page.

THE CHAIRMAN: Yes.

Q MR. NOLAN: That is "Administrative---

A "Administrative and General Expenses and Utility Expenses and Service Units", that is exclusive of certain service units which, those are not included but those are the only items.

Q MAJOR LIPSETT: When you say "those", what do you mean?

A The service units. The service units which start off, you might say run through any business, in that they expend their payroll, take in their materials and then charge out to the job, whether it is capital or operating as the case may be, those are not included and those figures totalling $81,917.86 in 1934 are the only items in the indirect costs which represent the total expenses for the year and in the first column at the top of the page we have the administrative and general expenses, taking the year 1934, the total of administrative and general expenses is $80,056.77; that is the first figure which appears on the left-hand side, that is the total, and then we have the utility and service units, boiler plant expenses, 25 odd thousand dollars; the electric light plant expenses of 21 thousand; the Turner Valley office expenses, 11 thousand; engineering $4300.00; lavoratory 9 thousand; general tools room expense 5 thousand; fuel gas line 22 hundred; camp sanitation expense $725.00; fire equipment expense 18 hundred, and there is nothing in that year under general plant expense, making a total of $81,917.86, which added to the administrative expenses above gives a figure of $161,974.63 and that is the total of the administrative expenses and these utility expenses for the year 1934, it is $161,974.63.

[illegible] Utility expense [illegible]

[illegible] in exc[illegible]

[illegible]

Now I think, similar items are listed in the following years and give a total of $179,696.26, as showing an increase of 10.94%.

In 1935, over 1934, now you have that percentage of 10.94 before you, sir, and if you just drop your eye down to the last column and we see that the drilling payroll increased by 546%.

Q MR. NOLAN: Not to the last column, to the last line?

A To the last line. You see the drilling payroll increased by 546% which means that in Mr. Morrison's distribution for every $100 that was taken away and distributed to well drilling in 1934 there was $646 in 1935; for every $100 capitalized to wells drilling in 1934 there was $646, that is to say, we had $100 in 1934 and $646 in 1935, although those expenses, the actual expenses which has got to be distributed on this labour basis, only went up by 10.94%. Now that is the basis on which I say that if you distribute the capital dollar per dollar on a labour basis your costs which will be going on in any case and would be chargeable against operations, they become immediately distorted. There is a certain minimum one must spend to keep the operations going and my submission is, and I feel very strongly, that this idea of, this basis of distributing dollar for dollar on the basis of capital payrolls and operating payrolls gives a situation which disturbs a proper showing of your operation costs.

If you look along the line, I would like to consider now the following years.

The year 1936, we have the same sort of expenses in 1936, administrative and general expenses, $67,430.00 and our utility expenses are $116,053.47, making a total of $183,483.47

an increase of 2.11 over the previous year. Now going, just dropping your eye to the bottom line in that column we see that the wells drilling increased 188%, which means that,- and bearing in mind this is an accumulative feature, we jumped 546% and then in the next year we jump 188%, so that in this year again as compared with the year before for every $100 we take against wells drilling in 1935 we take $288 in 1936, about three times, although the expenses which we are seeking to distribute only went up 2.11%.

Now if we follow that through, take the next year, 1937, we have a total of $224,598.27. Now in that 224 you will notice there is a little red cross against $35,178.85, which goes to a foot note at the bottom. Now that is a fluctuation which was abnormal. It had nothing to do with these continuing expenses year by year so I have tagged that and when I speak of the increase in the percentage of administrative and the utility expenses, I talk of them having gone up 3.24%, they have actually gone up 24.41, but 19.17% is represented by that, one might say, that artificial fluctuation. Now again, we have wells drilling up 88% from the year before so for every $100 we take against wells drilling in 1936 we take $288, yes, we take $288 in 1937 that is to say we have 100 in the one year and the next year we have, the next year we have 288, that is an increase of 188% so that we have got three times as much as we had in the year before.

Q MAJOR LIPSETT: I thought you said this 546% came in, was there 100 first in 1934?

A There was 100 in 1934.

Q And then 546 in 1935?

A That is right.

Q Then is there 188 on top of that 546?

A 188 related to the 546, we go to 546 and 546 then becomes 100% you see. We relate each year one to the other, not back to the beginning.

Q Oh, not back to the beginning?

A Not back to the beginning, but the effect of it is that it does work back to the beginning and if you take 1934, the total drilling payroll of $3,980.45, to the total drilling payroll in 1936, and that is put on a yearly basis, $194,051.62, from $3,980.45 to $194,051.62, and the percentage as I have been showing you in that period, took away from the operating costs and distributed to wells drilling capital, the relationship that $3,980.45 is to $194,051.62, and we have the expense which we are seeking to distribute going up 10.94%, 2.11%, 2.34%, 17.55% and that is the principle thing why I say it is improper to take dollar for dollar value on your payroll and distribute it to your capital additions because in the degree in which you are making capital additions, if you distribute them in that way, in that degree, you take away from your operating costs and to my mind you create a position within your operating costs which is not representative of the proper operating costs.

(Go to number 3126)

Q MR. NOLAN: Now there was another point that was left for discussion with the Commission. That was in respect of your estimate of 20% return.

A Yes sir. In that connection, Mr. Chairman.....

THE CHAIRMAN: I seem to recall 23% arising in connection with Mr. Taylor's evidence. Is that what you have previously had?

A 23%. That might have been the average probably over......

Q MR. NOLAN: If you will look at Exhibit A of Exhibit "100", Sir, That is the figure you have in mind, Sir. That is the average over these 7 years and 9 months.

THE CHAIRMAN: Yes, that is the average return they had enjoyed up to September 30th, 1938?

A The average over the 7 years and 9 months.

Q Yes, from December 31st, 1931. I just remembered that. All right.

Q MR. NOLAN: Then, Mr. Taylor, there is left for discussion with the Commission your report figure of 20% return on the investment?

A The suggestion that I should reconsider this 20% return which I gave as my opinion as being a fair and proper return on the investment in this pipe line. In the course of Mr. Frawley's cross-examination he suggested that some of these hazards that I enumerated in my testimony might be taken care of in fixing this rate. He mentioned all three of the hazards that the Commission might adjust, the hazard of their being no oil to come through the pipe line; the hazard of the good

or bad crop; and the possibilities of the hazard of competitive pipe lines. He suggested that I might come with him some way to meet that. I am entirely in the dark as to what the Commission might do in valuing these risks, and I cannot break up my 20% mathematically between one risk and the other, and the only thing it seems to me that I can do is to leave it at its 20%, and that is my submission.

MR. NOLAN: That was all I had to ask Mr. Taylor.

A There was another point I would like to clear up, Mr. Nolan. Mr. Commissioner Lipsett suggested that it might be considered that some of the hazard was gone in connection with the investment in the Fixed Assets, particularly the investments in the years 1936, 1937 and 1938, which had been gotten back and that since these were gotten out of the profits that the hazard might be considered as gone. I think at the time I replied that I considered that taking the hazard - that that would have the effect of taking into mind past profits which is something which I do not think should be done. I mean whatever way you take it in, whether in measuring the hazard or whatever way you do, I think that would not be the proper thing in my opinion.

Q THE CHAIRMAN: You say it should not be treated any differently than if they had taken their own money and distributed it amongst their shareholders?

A That is my submission.

Q I think we understand that.

A There is a point that I know the Chairman is seeking for. I think he just started in on it with Mr. Maw when he went off the stand, and that was what was going to happen in 1946 when our period ran out. Before we commence on that feature of it, I have to agree with Mr. Maw that if the operation cut off tonight we would have the $410,489.08 in the bank and we would have whatever we could get out of the Fixed Assets.

Q I do not get any support for my views at all about giving you credit for that $386,000.00.

A No. The $386,000.00, what we have done with that $386,000.00, that amount would have been applied against our $1,465,000.00 and our assets, it would be sitting there reducing that on our books, and we would have instead of $1,465,000.00, we would have $1,100,000.00.

Q The value of your asset would not be so great of course. You have converted it into cash as being a depreciated asset?

A Yes. You have taken $300,000.00 off your book value.

Q Yes, I think that is clear.

A Now to follow up the other feature of it, and carrying the position up to 1946, and there is still oil coming - assuming you take a rate of return of 20% and 1946 as the expiry date - then 1946 comes along and there is still oil coming through the line in 1946.

Q Yes?

A Then at that point a new rate base has got to be considered. Now at 1946 we will have gotten back all our capital, all our investment, 100%. Now the question is

[illegible]

[illegible]

[illegible]

[illegible]

are we going to get any more amortization. We are now considering the situation in 1946. Now there is a difference, quite a difference of view as to whether you should get any more amortization. I think Dr. Boatright in his evidence visualized the case something like this, of coming back the second time, and reading from page 2400 of Dr. Boatright's evidence.

Q 2400?

A 2400. And this was assuming that the Company in past years had had a rate which was regulted by a regulating body. That was the situation he visualized when this question was put. Mr. Frawley questioned Dr. Boatright and he said:"

"Q. If that had been the case, and everything else being the same, you would say now to Mr. Morrison and this Commission that they should make no allowance whatever for amortisation. But you say the circumstance simply was that they did not go and nobody took them to the Board at that time and they made a charge as they saw fit and which we now know and you see was one that made big profits for tham.....

THE CHAIRMAN: There is no magic in the Board doing it. That is only on the supposition that the Board in fixing the rate would be amortizing, would be giving them back the capital invested over a period of time fixed by that Board and when that time had expired, from then on it would be what would be a fair charge for the service because the Board might arrange that the capital be returned.

A Yes."

Q THE CHAIRMAN: Did Dr. Boatright say anything to that?

A Yes. Thqt is his reply "Yes".

"Q. MR. FRAWLEY: I merely meant that the Board would then have to approve of an amount for amortization?

A Yes. That is, in effect, all it would mean."

Now I think there have been cases - there is a case where we show no more amortization but there have been cases where.....

THE CHAIRMAN: Unless Mr. Frawley has fixed it up with that last question?

A I would like to read from Page 2639 of Mr. Morrison's evidence. I am just trying to find out how far back one has to go to get the sequence of this. I think if we go back to the question, Mr. Frawley was examining Mr. Morrison then and the question is:-

"Q. They were a Company with very strong compulsory powers to run a pipe line any place that was necessary whether anybody objected or not.

A Yes. Insofar as accounting is concerned, I may say that this is the usual method adopted."

Q MR. COMMISSIONER LIPSETT: That is referring to this Company, to the Royalite or to another company?

A This is another company. This is a quotation bringing in this question of whether there should be any more amortization after the Company has got 100%, being

regulated by a rate base on both sides. Mr. Morrison replied "Yes. Insofar as accounting is concerned, I may say that this is the usual method adopted."
"Q. I see that book.......".
Now I think this quotation or Mr. Morrison's information is out of that book that was put in as evidence. I have not had time to look it up, qnd the answer is "That is the only one I am personally familiar with and that is the Calgary Gas Company, it is the same method that was adopted.

"Q.I still have this fact present to some extent in my mind and I would like to see it cleared up in some way. If we first of all give them this 10% or they took that say?

A Yes.

Q And that we be asked, or whoever be interested in it, say it was reasonable that they should get some of their money back in ten years, I mean when this comes up, if we go away from that basis we are giving them that money twice over.

A I can quite appreciate that viewpoint. I think it is a very real difficulty. By the way that is mentioned in several of the text books in connection with rate cases that that is the big problem which a Commission has to face, that fact that the Company has apparently got back by way of depreciation 50 or 60 per cent of its capital and then successfully argues before the Commission it should then get back a further 90%."

So one is left rather in a quandary as to whether there

should be no amortization in a rate base when you have already got a base which has depreciated from 90% or 100%, or any per cent. Apparently the situation is that one can go back and not have all of the 50 or 60 per cent held against them.

Q You have never personally had to do with that?

A No, I have never personally had to do with a utility like that.

Q In the ordinary routine of a commercial corporation, that has not to do with regulatory bodies, you only depreciate once, I ~~suppose~~?

A Only depreciate the once, yes. That is so. ~~That~~ deals with the question of whether you are going to get amortization in 1946. Now we go then to the rate of return, and I would say if we come to 1946 and there was still oil coming through that line, and good prospects of it continuing to come, if you had given 20% in your rate base now and that was the position in 1946, you would have given them an excessive rate now, and I would say in that case that you would be entitled to take into consideration past profits, always remembering that we are dealing with the case which is regulated by the setting of a rate base and a consideration of the return and the period over which the amortization is to take place, at the beginning of our period, and at the end.

Q Once you permit a regulatory body to step in there, and if it gives you a considered rate over 5 years?

A Yes.

Q So that you make profits that they might consider

excessive?

A Yes.

Q They would have the right to leaven it up by giving a lesser rate then than ordinarily they would on what they thought was the future life?

A Yes. That is right. I think that rather brings that back, to my mind anyway, rather brings us to this conclusion and that I know is something you have been seeking, Mr. Chairman, for a while......

Q Is that consistent with.-. why in such a case should you look at past profits even where a regulatory Board has ill-advisedly made a rate that permits of the Company earning more profits than they thought they would, why should you take them away from them on your theory?

A Well I think in that case we would have regulation and that the regulation would take cognizance of past performance so as to leaven up the whole, so as to average things up. In the case of the Royalite Company, up to the present, they were allowed to go on their own sweet will, go there own way and did make handsome profits, there is no doubt about that.

Q One thing more, you were going to, or Mr. Maw was going to run your final calculation down into barrel Mr. Taylor?

A That has been done, Mr. Chairman. We submitted....

Q I did not know I had that. What Exhibit is that?

A It is a little single sheet.

Q MR. NOLAN: Has it gone in?

A Yes. Maw put it in yesterday.

THE CHAIRMAN: You were to run it down t

so many cents a barrel but I did not think that had been done?

A That is in as Exhibit "120". There was some discussion as to whether the salvage value should be taken in in this calculation. There is no salvage value taken cognizance of there, But it is exactly in line with our presentation of just merely getting our capital back 100%, so it is now in the same position as our report.

MR. NOLAN: But we are going to prepare a statement of per barrel cents with salvage and that is being done.

THE CHAIRMAN: That is being done and Mr. Maw will put that in?

MR. NOLAN: Yes. It will be ready we hope, on Monday so it will go in then

THE CHAIRMAN: All right, thank you. That is all I had.

Q MR. COMMISSIONER LIPSETT: Just a moment before you go, Mr. Taylor, in referring to this Exhibit "121", to get it a little clearer, have you considered this in the light of the figures, or at least in the light of the early part of your report where you say that the Company was primarily a producing and refining Company, and that the pipe line was only incidental to it. I just want to put this alternative case to you and get your views on it. Supposing that this Company was drilling wells and running their refining and absorption plants and there was no pipe line, and they had to get all their oil by railway, have you considered which of those utilities and administrative expenses could be dispensed with at all

under those circumstances?

A No, I would not be able to judge as to that, Major Lipsett. It would be a very involved engineering problem, I should think, as to which they could get along without and which they would require.

Q You could not give any opinion on that?

A No sir, I could not do that.

Q It might be a matter of considerable importance in considering it?

A It might be, but I should think that it would require very extensive study by engineering people as to just what the position would be, as to how many they would need and how many they would not need.

Q It might bear on the view that it required much greater skill, both in administration and in the staff generally in the utilities, to drill holes and to refine crude oil than it does merely to supervise its passage through a pipe line. I would like your views on that?

A That may be so, yes. As to the degree in which that would change the picture I would not want to guess. It would be a complicated engineering question.

Q I was rather struck with the words in your report that the pipe line was merely incidental to the main operation.

A That is written of the pipe line really in its earlier stages, that it was incidental. It is not incidental now. I would not say that the pipe line is incidental now. It has developed into a very important part of the operations.

Q MR. FRAWLEY: Mr. Taylor, I am wondering if I understand what your evidence now is with regard to the rate of return, do you agree with me that the business of the Commission, however difficult it may be, is to endeavour to establish the rate which will guarantee a certain rate of return to the company?

A Guarantee?

Q To establish a rate per barrel?

A Yes.

Q To establish a rate per barrel which will guarantee a certain rate of return to the company?

A I do not know about the word "guarantee", Mr. Frawley, it will be the best judgment as to what is proper.

THE CHAIRMAN: Which is expected to provide the rate of return.

Q MR. FRAWLEY: The chairman has stated it admirably, which is expected then to provide a rate of return to the company of 20, 10 or whatever the rate is?

A Yes, in their best judgment.

Q Now how difficult that task is, that is what they will finally arrive at, they will arrive at some, I suggest to you at least, that they will arrive at some life of the field, that is the assumption I am taking, in view of your evidence you say that is not necessary for your purpose?

A I do not know whether the Commission will arrive at the life of the field or how they will arrive at their final findings.

Q Put it this way, if they do arrive at the life of the field, now this may be repetition, but I thought you were coming back with some scaling down, to use your own expression yesterday, and I hope you will excuse me and that the Commission will excuse me, if I repeat myself, if the Commission does arrive at the life of the field, that then becomes the basic factor

in the determination of the rate, does it not?

A The life of the field, yes, it would become one.

Q Yes?

A One of the basic factors.

Q Yes, and if that is so, then is the Commission not assuming that the hazard of oil not being there to go through the pipeline, is that not largely eliminated?

A Well I presume they measure, the Commission would measure the hazard and they do it automatically in measuring the life of the field.

Q Yes, and then you see that hazard has largely gone after the Commission has arrived in its best judgment at some figure for the life of the field?

A Yes, that hazard has gone.

Q That is what you said the other day?

A Yes.

Q And you do not want depart from that I presume?

A No.

Q Then even if we had nothing else alone but that one thing, does that not necessarily, in your opinion, avoid the necessity of obtaining the total 20%, your original figure?

A That would be so. As to what proportion of it, I did not put any proportion on any one particular reason.

Q No, I do not want to press you any further on that, you say it is impossible mathematically for you to say 18, 17, 16 or 19 but it has to come down in your opinion something from the 20%?

A Yes.

Q Perhaps now that is all I have to say about that, in view of your remarks to the Chairman a moment ago about the qualified right to look at past profits, this qualified right

which may exist, perhaps you will agree with this paragraph in Whitten's book on "Valuation of Public Service Corporations", I will read a paragraph to you and tell me if you agree with what he says. "In general", at page 1878 of Whitten "Valuation of Public Service Corporations", dealing with the "rate of return", it is in the chapter on

" "rate of return".

> " In general, if a utility has had a profitable career from the start, not having had to submit to early losses in the establishment of a profitable business, or if having incurred such losses it has subsequently recouped them by a period of high earnings, the rate of return to be allowed in a rate case will be lower than if it had incurred inevitable losses and had not yet been able to recoup them".

That does seem to me to be just stating what you have stated?

A I would like to read it again.

Q I will read the whole paragraph.

A There is a question in there---

Q " In general, if a utility has had a profitable career from the start, not having had to submit to early losses in the establishment of a profitable business, or if having incurred such losses it has subsequently recouped them by a period of high earnings, the rate of return to be allowed in a rate case will be lower than if it had incurred inevitable losses and had not yet been able to recoup them".

Then I will read the rest of the paragraph.

" The rate of return in the case of unrecouped losses will be affected, however, by the present status and earning power and future prospects of the business. Regardless of its past history, the utility is not constitutionally entitled to a higher rate of return than it can reasonably expect to earn under conditions as they are and as they are likely to be in the immediate future. It would be obviously futile and destructive of the regulatory power to hold, either in valuation or in rate of return, or in the combination of the two, that a utility is entitled to more than its earnings at reasonable rates will support".

Now the first part of the paragraph is a plain statement there and that is what I want to draw to your attention, do you agree with this writer when there has been no losses, or if there had been earlier losses they have been recouped by subsequent high earnings, that the rate of return will be lower than if they had incurred inevitable losses and had not yet been able to recoup them.

A The rate of return would be lower.

Q Yes?

A Yes, I think that is exactly what I said to the Chairman.

Q So that is the qualifying extent to which at least you say the Commission may go in looking at these past earnings?

A Yes.

Q MAJOR LIPSETT: Does Mr. Taylor agree to that, do you accept that.

MR. FRAWLEY: He said he agreed.

A Yes, I accept that.

MR. FRAWLEY: There is some cross-examination now which Mr. Morrison wants to ask.

MR. MORRISON; Mr. Chairman, and Mr. Commissioner, I do not wish to appear to assume the role of cross-examination, only for one purpose, sir, that there has been, to my mind, a reflection on both my professional ability and my integritiy in the evidence submitted yesterday by Mr. Maw.

MR. NOLAN: Mr. Chairman, I am very sorry if that impression has been conveyed. What we were attempting to do was criticize to the best of our ability the respective methods which have been used. It has been said all along that everyone is doing their best to distribute these overhead costs and if Mr. Morrison feels there has been any reflection on his ability or his integrity I wish to say at once that there was no intention of doing either of those things, was never present in any of our minds and I am very sorry that he should feel that way.

THE CHAIRMAN: Mr. Morrison, it is regretful that you should feel that any such attempt was made to cast a reflection upon you, but I think I speak for both of us when I say that we did not get the impression from the witness that he intended any such reflection nor did we ourselves come to the conclusion from any evidence given by him, that we might make up our minds to that effect, so that I think that you are, as we are all perhaps in our professions, sometimes unduly alert, but I do not think that Mr. Maw's evidence at any time went beyond the realm of proper criticism of the evidence of someone who had a different point of view. Now criticism is not only permissible and should be made without offence to anyone but it is exceedingly

desirable in order that we may have a frank expression from one who has an opposite view, not only as to what his view is, but as to what his opinion is as to a view expressed by someone who has opposite views.

MR. MORRISON: I have a very sincere appreciation of an honest difference of opinion.

THE CHAIRMAN: And a very proper criticism.

MR. MORRISON: And a proper criticism, very true, but what I have reference to in particular, sir, is the reference made on pages 3087 and 3088 of the transcript and I shall read the question.

"Q. You say will have been allocated to capital expenditures, by whom? How? A. On the basis of making up the payroll. Q. Yes? A. Now Mr. Morrison, has allocated the whole 18% to operations, whereas 60% of the $42,000.00 on the basis of his payroll should have been allocated to capital expenditures, and following it out to its logical conclusion, would have been in actual practice capitalized, thereby increasing the investment and reducing the operating cost. Now before I go any further with that, I would like to say this, that I have reviewed the evidence which Mr. Morrison gave in respect of the application of this percentage, and the impression that I got from his evidence was that he was quite aware of this feature, which I am describing to you, that 60% should theoretically go to capital. But although he was aware of that feature of it, in his opinion it was not necessary to carry it to its logical conclusion, that it had arrived at what he considered to be a fair basis, and it would be

all right to forget the future logical carrying out of the system and applying it, apply the whole of the 18% to operations".

THE CHAIRMAN: He distinctly says there that you had arrived at what was in your opinion a fair basis?

MR. MORRISON; Without carrying it to its logical conclusion.

THE CHAIRMAN: To its logical conclusion. He says "without carrying it to its logical conclusion"you arrived at the point where you thought it fair to proceed from there. Now we got no different view from that, and I do not think the witness intended it, Mr. Morrison.

MR. MORRISON: Well I certainly got the impression.

THE CHAIRMAN: Is that he thinks your calculation is erroneous because you didn't go far enough.

MR. MORRISON: Very true.

THE CHAIRMAN: You reached the point where in your opinion it was fair, I think was the exact word, at any rate where it was proper to stop. Now he says logically you should not stop and that is his opinion.

MR. MORRISON: Because I did not carry it to its logical conclusion. Now that is what I want to dwell on.

THE CHAIRMAN: Well all professional men may be considered illogical by others without any attack being made on them. In fact lawyers tell each other that every day.

MR. MORRISON; Quite true. I quite appreciate that so long as there was no suggestion that I stopped at that point because I had arrived at a result which I thought was the result that I wanted to arrive at.

MR. NOLAN: Oh no, no, no, emphatically no.

THE CHAIRMAN: You now have Mr. Maw's assurance through Mr. Nolan that he did not mean anything of that nature. From time to time Mr. Maw pointed out where he differed with you and he did so with respect and I would be sorry to think that anyone would feel too alert to resent criticism.

MR. MORRISON: Oh no, I do not wish to give that impression.

THE CHAIRMAN: Criticism is most helpful to us as you can readily understand.

MR. MORRISON: We can eliminate then from the point of view, the suggestion that I stopped at that point because I did not desire to follow it to its logical conclusion.

THE CHAIRMAN: Oh, quite so.

MR. MORRISON; Then I would like to discuss with Mr. Taylor, because Mr. Taylor represents the firm of Price, Waterhouse and Company, with which Mr. Maw is employed.

THE CHAIRMAN: Yes.

MR. MORRISON: I would like to point out first from Mr. Taylor whether or not in the submissions he is making, whether it is his own personal ones or those of Price, Waterhouse and Company.

A Well you might say that it is the firm's opinions through me, one of the partners.

Q The reason I require to ask that, Mr. Taylor, is that you went to pains in your evidence when you submitted your report to point out that, although the report was signed by Price, Waterhouse and Company, it was your own opinion?

A Yes.

Q And I wondered if there was any distinction?

A No, there was no distinction, I did not consult my other partners for instance as to those opinions. I considered myself qualified to do it for my firm.

Q As I understand you are leaving, I want to take this opportunity of pointing out just where Mr. Maw's opinions, insofar as they applied to the evidence, will be his own or those of Price, Waterhouse and Company.

A Oh, they would be his own opinions.

THE CHAIRMAN: I would like to make it quite clear speaking now as Chairman of this Commission, when a man goes into the witness box and pledges his oath, that you are going to hear from him that which is the truth according to his own lights, and we do not care a tupence what his firm thinks. The people who come before us, or any person under oath, it is their evidence we are listening to.

Q MR. MORRISON: Mr. Maw gave as his evidence certain matters connected with this very controvertial subject of the distribution of indirect expenses?

A That is right.

Q And in your report Exhibit "100"?

A Yes.

Q You point out that there are a number of bases and I will omit the brackets at the moment, "on which charges of this nature are allocated in actual accounting practice", and then in brackets between those lines you have "all of which are arbitrary"?

A That is right.

Q What did you have in mind in that, Mr. Taylor?

A I had in mind that the problem of distributing overhead is one which one cannot apply a standard to, I mean in different businesses, you have to apply difference bases of overhead. For instance in a departmental store you en-

deavour to distribute the overhead, all the overhead of the store, endeavour to distribute the overhead of the store so as to break up your profit results by the departments, that is usually done on a basis of floor space.

Q Is that the only basis?

A That is not the only basis, this direct labour basis is a very common basis.

Q So that there are many different bases of distributing overhead charges?

A Oh yes, there are, sometimes they distribute it on a unit basis.

Q Yes?

A Take, if you have two or three departments, producing different things, you take your overhead and you establish an equation and charge it up on a unit basis. There are many different ways and the goal which everyone seeks to get is the proper distribution, I mean you try to arrive at the goal which is, in a practical way when you are through, looks as near to what it should be as possible, I mean the expenses are such, the expenses are such and the reason why they are left there, it is sort of, that reason why they are left there is because you cannot distribute them anywhere else, and if it is permissible on the record, what you might call a cat and dog system, you cannot distribute them directly anywhere.

Q Yes, now you said, Mr. Taylor, that if it looks reasonable---

THE CHAIRMAN: We have heard about a "horseback figure" what did you say about cats and dogs?

A These expenses are the cats and dogs that cannot be distributed directly to any department. They are just hanging there and they have to be got into the departments some way and it has to be on some arbitrary basis. I want to make that clear, that

any basis you apply has got to be arbitrary.

Q MAJOR LIPSETT: You cannot quite separate the sheep from the goats?

A Well that brings up two other animals into it.

Q MR. MORRISON: Mr. Taylor, you said so long as the figure looks reasonable, just what did you have in mind?

A So long as the figure, the results you arrive at look reasonable, seem reasonable.

Q Is it not correct to say that the idea of taking any basis is to arrive at a result?

A To arrive at a result and I would say after you arrive at the result, to study it and look at it and see if it seems reasonable.

Q Well, but if it would seem reasonable, why do you have to have any basis, and not merely say "well I think that $10,000 should go there"?

A No, no, you do not find that out until your job is completed.

Q Just let me carry on, you come to the end of the year and you have a large amount of indirect expenses to distribute?

A Yes.

Q And you want to do that?

A Yes.

Q Now is the suggestion that you can only have your yard stick if it will fit in with the result that obtains from using that yard stick?

A I did not quite get that question, Mr. Morrison.

Q I want to put it quite clearly, you have a lot of indirect expenses which you wish to distribute?

A Yes.

Q And there are many ways in which that can be done?

[illegible]

A Yes that is right.

Q Now if you use the method which in your best judgment, without any idea of what the result will be, you find certain figures?

A Yes.

Q Now will your judgment as to that yard stick be qualified by the result?

A No, I would say if you choose the basis, if you choose a basis you should go right through with it irrespective of the results.

Q Irrespective of the results, that is true?

A If you choose a basis.

Q If you choose a basis and no matter what your basis is, if you start to use that, if you use your best judgment---

A Yes, and carry your basis right through to its conclusion in an accounting way.

Q Now just a minute "in an accounting way"?

A Yes.

Q Just to follow you there, what is the purpose first of obtaining this yard stick?

A The purpose is to, really to close out these accounts and get them distributed.

Q Get them distributed?

A Yes.

Q Now then when you say you would carry it to its logical conclusion?

A I didn't say "logical", sir.

Q I beg your pardon, to its accounting conclusion?

A To its accounting conclusion.

Q Yes, what would be your procedure?

A My procedure would be in the case, can I have that Exhibit

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

which Mr. Maw put in?

Q Exhibit "119"?

A Yes.

(Exhibit "119" produced to witness)

Would you allow me to go over this statement?

Q No, I would rather you first, Mr. Taylor, if you would please, to discuss it in a general way, I will certainly discuss this Exhibit with you?

A Disuoss it in a general way.

THE CHAIRMAN: What was the last question?

Q MR. MORRISON: Yes, we have a certain amount of operating expenses to be distributed and Mr. Taylor says after he had used his basis of distribution, whatever it might be, he would then carry that through to its accounting conclusion, is that correct?

A That is right.

Q Now what did you just have in mind there, Mr. Taylor?

A Well I had in mind that if the company had accepted your basis of distributing overhead.

Q We are speaking of this company now.

A If the company had closed its books on the basis of using your distribution of overhead---

Q Yes.

A Carrying it through to its conclusion on the books before you examined the books, before you visited the Royalite offices to examine the books, this is the position you would have found on the books.

Q That is the position, Mr. Taylor, and we will deal directly with this Exhibit "119", that I would have found on the books if I had been the auditor of this company and I had suggested to them that they should have used the basis

which I had suggested for distributing the portion of their administration expenses to the pipeline department, in your opinion this would have been the result?

A The proportion of the administrative---

Q And the direct?

A And the direct expenses.

Q Yes, now why do you come to that conclusion that that would have been the result?

A Because until we arrive at this result we have all these overhead accounts still open in the books.

Q That is correct?

A We take these overhead accounts and we distribute them partly, part of them will find their way into our capital expenditures---

Q Where do you get that thought, Mr. Taylor, from my basis?

A From your basis.

Q Yes, where do you get the thought that part must go to capital?

A Because you, on your basis distribute the capital.

Q I do not, I do not distribute the capital.

A Well---

Q I think if you will refer to my evidence that Mr. Maw touched on, on Page 2680?

A Yes.

Q I think it will express exactly what the method was.

A 2680, is it?

Q Yes?

A Which part, what is the number?

Q 2680, Volume 20. I point out there, I illustrate - and distinguishing between the Drilling Department of this Company which is not an operating department as you will appreciate, and the other departments?

A Yes.

Q In the Drilling of Wells Department of the Royalite Oil Company they have not what we as accountants speak of as an operating department.

A They have not an operating department but they have an account Wells Drilling.

Q Very true?

A To which a portion of your overhead would be distributed.

Q Not necessarily according to my method, I do not think.

A I would like to read this part that Mr. Morrison directs my attention to.

Q I would be glad if you would.

A " As against that, I am not suggesting that they should capitalize the amount, but for the purposes of this Commission we are endeavouring to allocate the expenses. I am not suggesting the Company should have capitalized this. But if they wish to capitalize it it is quite proper."

I assume that the Company think it is quite proper and on this statement they have so distributed their capital feature within the pipe line department.

Q Very true, Mr. Taylor, but they would not do it on my method. They might do it on your method, of your suggestion to the Company?

A I submit that this would have been the position on the books if the Company had followed your method of distributing pro rata, dollar for dollar of capital expenditures and operating.

Q I am not suggesting that, Mr. Taylor. I think that is where probably we have a very real difference of opinion. Let us go back to the beginning of things again. I will try not to labour it unduly. But you were not here at the commencement of negotiations?

A No.

Q Your representative was, Mr. Humphries?

A Yes.

Q At that time our desire was to obtain a yardstick by which to measure what amount of these indirect expenses and administrative expenses should be charged against each of the departments, against the earnings of the departments?

A Yes.

Q It was our desire. I may, for your information, tell you that we argued the pros and cons of various methods, and it was agreed at one time that this method which we have continued to use, was agreed upon as being a fair and equitable method.

A I understand that is not so as to principle. It was as to the proportion of the payroll.

Q I am going to go back a little further than that?

A I am afraid there is no use examining me on that.

Q Very true. There is not any use. That is why I said you were not here?

A As I say I was not here.

Q But accepting for a moment what I am saying to you

[illegible] been the position on [illegible] had followed your method of [illegible]

[illegible] different areas of [illegible] country. And you [illegible]

[illegible] hold a provision [illegible] these [illegible]

[illegible]

is correct, and I am not saying that because it was then changed, because I am quite willing to agree if the Company decided later they would not accept that distribution, they were quite within their rights. The only point I am making is at that time this was discussed there was no suggestion by us or by your representatives, that these things should be capitalized. We were merely distributing for the purposes of this Commission an amount of operating expenses.

A Well I will say this, if I go through the process of distrihuting the Company's payroll, part of it to capital, I would consider myself quite wrong in an accounting way if I did not follow it through to its conclusion on the books.

Q I think you would. But what I want to bring out to the Commission, and this is very important, is that I am not suggesting, and never have suggested, excepting insofar as it relates to drilling of wells, and the reason of which is quite obvious, that there is no operating department there to take care of the charge, never suggested that this amount should be capitalized. I am not distributing the capital. We are merely finding a yardstick by which for the purposes of this Commission we shall allocate these indirect and administrative expenses to the various departments.

A But it is so you did not stop at the drilling of wells. You also capitalized to all of the work that was going on in the pipe line department.

Q I did not capitalize anything, Mr. Taylor. I charge it

[illegible]

[illegible]

[illegible]

as operating.

A Your basis was the distribution of capital. You included your capital payrolls.

Q Only for the yardstick. I want to try.....

A I rather think unless you take the yardstick all the way down the line that.....

Q Let us just stop there for a moment, and let us see what we are using that yardstick for. Are we not using the yardstock to distribute the expenses which are common to many departments?

A Yes. Partly to capital and partly to operating.

Q Not necessarily.

A Partly on the basis of capital and partly on the basis of operating.

Q Let me put it this way, would I be wrong in suggesting there should be no portion of that added to the capital of the pipe line department under my method?

A That no portion of it?

Q Yes. You see this is my idea at the moment, not Price, Waterhouse & Company. They have ignored it.

A I would say this, if I had arrived in Calgary and found that my Calgary office were working on the same basis as you were, and stopped at the point that you did I would not have had it.

Q You would not have agreed to it?

A No. I would have carried it right through to its conclusion on the books. If I see any distribution and I am going to charge something to capital, I am going to carry it through on to the books and charge it to capital.

Q I have no quarrel with you, if you said in your first premise you were going to charge something to capital you should carry it out. But if in the first instance we had agreed that what we were endeavouring to do was to allocate for the purposes of this Commission, because as you know Mr. Taylor, we have had to get away from the books on many different items?

A I know that.

Q And we were merely endeavouring to put before this Commission a statement in which would be reflected the portion of the operating charges?

A Well I would say as to that, that from the point of view of carrying through the yardstick to its final accounting conclusion, that the $42,000.00 that we are discussing in this, is left suspended in the air, halfway to its final distribution.

Q So that if I had carried it through to its logical conclusion - or to its conclusion, pardon me for using the word logical,- to its accounting conclusion, then I would have arrived at a lesser charge to operations?

A That is correct.

Q And because of that I cannot at least be accused of being unfair to the Company?

A Except that your cost per barrel, on which everything is predicated in your statement, would have been less.

Q Yes. Of course being an arbitrary method I would not be concerned with what the result was. You see I was really just trying to allocate the expenses. I would not be concerned with whether it was a big figure or a low figure. Would that be correct?

A I do not know what you would be concerned with, Mr. Morrison.

Q Just putting it on your first premise that I asked you a little while ago, when you were working out the ratio, that if the result just did not meet with what you thought was all right, still the ratio would be quite good. You will recall that a little while ago I asked you as to one result you obtained....

A I say this without any qualification, that when you choose a basis you go through to the end regardless of the result. That is what we did.

Q That is what you did under your method?

A Yes.

Q This was not your method, of course?

A Which?

Q The method I am adopting?

A No. Our method was carried through to its conclusion, its accounting conclusion.

Q If you had adopted my method you would have carried it through to what you think is the proper accounting conclusion?

A What I consider is the proper accounting conclusion.

Q But being an arbitrary method, does that mean that my conclusion, my final conclusion is wrong?

A I do not want to get into a discussion of rights and wrongs.

Q But I would like you to, Mr. Taylor.

A I would say that in my opinion it is wrong in that it leaves these expenses halfway to their final goal. The proportion of these expenses charged against the pipe line.

Q That is to say on your interpretation of the method I have suggested you feel I have not gone to its final conclusion?

A Yes, that is right.

Q So as the alternative to that you have suggested in Exhibit "119" that you have gone to its proper accounting conclusion?

A "119"?

Q Yes?

A What is that? Oh yes, that is right.

Q Just let us examine that for a moment, Mr. Taylor, you say you would take $17,000.00 first because it relates to the proportion of operating labour being 40.06%?

A Yes.

Q I presume that was the figure you had in mind in your evidence when you said there would be approximately $17,000.00?

A Yes sir, that is right.

Q I see there has been another item added since that time. $1754.25. When you gave your item of $17,000.00 did you have this in mind also at that time?

A No, I had in mind only to take the 40% of the $14,000.00.

Q If that had been your considered conclusion then it would have been quite incorrect?

A This is just a rough calculation on 40% of the overhead feature. I did not follow through the other.

Q But is it not necessary to follow through the other on your own basis?

A Yes, this statement shows that follows through.

Q Does this statement show it followed through to its conclusion?

A Yes, it does.

Q In your opinion it does?

A Yes.

Q Let us go back ahd view your situation, just what would be the result. We shall transport ourselves back to the year 1926 when this pipe line started to operate, rather when the pipe line department started to operate?

A 1926.

Q We would have a situation, wouldn't we, under this method you are suggesting I should have adopted that there would be a portion of that capitalized, a portion of that payroll capitalized.

A In 1926?

Q Yes, on the method you suggest I should have capitalized in 1938, I should have capitalized some $22,000.00 of this expenditure. You suggest that. And that if I put that on to operating I was quite wrong?

A You are talking about 1926.

Q I am going back to 1926, because I am endeavouring to show you there is something else to be added to this statement?

A What is the reference to 1926?

THE CHAIRMAN: He is asking you a question about 1926. What is the question?

Q MR. MORRISON: If we began preparing a statement for each year from 1926 on?

A Yes.

Q In order to show the operating results?

A Yes.

Q When we come to the distribution of operating expenses under your basis, that is my basis transported into your method of working it out?

A Yes.

Q We would then have found it was necessary to add to the ordinary distribution of operating expenses a portion of the amortization of that year?

A Yes.

Q Just as you have done in Exhibit "119"?

A Yes. If you had carried through your basis all the way through from 1926 that would be so.

Q But what about your basis? Is it not necessary in your basis?

A On what basis?

Q On the basis of Exhibit "119". Why do you merely just take a portion of that year 1938 for this method, Mr. Taylor?

A There would have been this feature working in.....

Q Every year?

A Right back to 1926.

Q Surely, and do you know what the result would have been?

A No.

Q Might it not have been that the figure of $42,000.00 might still have been $42,000.00?

A I would not venture a guess at that.

Q Would I be wrong in suggesting it might be?

A It might be and it might be more than $42,000.00.

Q And are you being fair to me in suggesting that because you took that to its accounting conclusion, in your

[illegible]

opinion, that my figure of $42,000.00 would have been reduced to $18,000.00. I mean not to me but to this Commission?

A There would have been another feature to that too, Mr. Morrison. There would have been, if you had applied it, there would have been a growth in your capital account which would have changed your relationship..

(Go to Page 3160.).

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Q Exactly.

A You would have got more amortization.

Q More charged to amortization?

A How far that would have worked out I do not know what figure you would have arrived at.

Q I merely make the suggestion now, with all deference, that the statement which you have submitted to this Commission as being the one which would have arrived at the proper accounting conclusion on my basis is quite incorrect.

A That is the position that would have been in this particular year but as you suggest there would have been a picking up of capitalization back over the years.

Q Which would have been the position in that particular year now, this statement there?

A Yes.

Q You mean is that a correct statement of the situation in this particular year?

A No, it would not be because you would have collected amortization on the capital back to 1926.

Q Yes, in other words, in order to do as you have suggested in carrying through the method I have adopted - and I have not adopted the basis you suggest I adopt - I did not have it in mind when I commenced that operation. But even suggesting we put it on your basis, would result in the final analysis be any different materially?

A I would be unable to say without applying your basis back to 1926 and working it forward.

THE CHAIRMAN: Has not that been checked up by any one? It has not been checked? We have been at great pains, at least Mr. Maw has and you to some extent, to point out that Mr. Morrison has not gone to the proper accounting conclusion but stopped short. Have you made this

observation without having checked back to see whether it makes any difference.

A The feature that Mr. Morrison is bringing out now did not occur to me.

MR. MORRISON: I just want to make one other observation, Sir, that may not be necessary. But that in none of the calculations we have made, have we been concerned in any way with the result that they show. We have endeavoured merely to get a basis and apply that basis without regard to what result might be shown. I am not suggesting that you have done anything to the contrary.

THE CHAIRMAN: Well any more questions?

Q MR. MORRISON: There is probably one other point that might be perhaps clarified in our own accounting language, Mr. Taylor? And that is the treatment of your statements in respect of capital losses. We have two main items, we have the 6 inch loop, which has been discussed at length, and these various other sundry items amounting to approximately $56,000.00?

A Yes.

Q You have given your opinion to the Commissioners and I am not taking any exception to that but I want to draw your attention to the treatment of these similar things in our statements in that we have regarded them all as charges to operations in the years that they occur?

A Yes, that is so.

Q In your statements, Mr. Taylor, there are items of a similar nature under the heading of Trucks and Tractors.

[illegible]

Is there any real difference from the point of view of this Commission between the items of say Trucks and Tractors and and Pumps and Pipe Lines?

A I would not say there is any real difference.

Q Any real difference in the accounting method that we should adopt. Is it not correct in your statement that you have regarded profits or losses on the sales of trucks and tractors as an operating item?

A Yes, that is so.

Q But the profits or losses on the sales of equipment you have regarded as capital?

A As capital losses, yes. As a matter of fact I think both of them might quite properly be considered, both of them might quite properly be considered as capital losses.

Q They should both be the same thing, no matter what it is, Mr. Taylor, I suggest?

A Yes.

Q Would it be fair to suggest one should be capital and the other should be operating. If one is capital then the other is capital?

A Yes.

Q If one is operating the other ought to be operating?

A Yes.

Q Under our system we have been consistent in calling them one thing, operating?

A That is so.

Q Under yours you have regarded one as operating and the other as capital?

A That is right.

Q In that regard, to make that quite clear, might I refer

to Exhibit "100", C-8, which was referred to most, and in that particular item C-8 there is an item of profit on sales and retirements of automobiles, trucks and tractors, as credited in the books, net credit $604.83. That is C-8. Now that represents a profit on the sale or retirement of trucks and tractors?

A Yes.

Q And that was taken into consideration in making your distribution on your basis of administrative and indirect costs?

A That is right.

Q And under our system we similarly regarded all of the other transactions. That is to say included - if we had gone back to 1932 we would have included the 6 inch loop as a charge against operations?

A As a charge against operations.

Q And would have shown a loss for that year in all probability which would have been recouped either out of subsequent profits of previous profits?

A If you were preparing an operating statement for 1932 would you include that $172,000.00 as an operating loss?

Q As an operating loss? Well the difference between the book value taken in and the capital item, and of course, the depreciation. With reference to that, just following it up one step further that is included in your statement on the rate base, on the theory that it was a cash investment, and has

not been recovered even although it is not now in use, the book figure which you still include in there depends on the valuation which was put on that at that time does it not?

A On the valuation at the date that it was taken up, yes.

Q So that if the valuation should have been low, some other department of the Company would get the benefit of that valuation?

A If it had been low, yes.

Q And if it had been high that other company would have been charged too much?

A That would be so.

(Go to Page 3165.).

Q Nevertheless for the purposes of this Commission there is the question if it were agreed that should be in the rate base - and I am not suggesting that it should - but taking your own viewpoint there is a question as to what the amount should be?

A I would assume that the operating people who are best able to judge as to the value of that, would value that pipe.

Q It is an inter-company transaction.

A An inter-department, yes.

Q There is no outside cash coming into it?

A I do not suppose there was any outside appraisal.

Q I was not thinking of that. Nor an outside cash sale?

A No, not an outside cash sale.

Q Thank you, Mr. Taylor.

MR. COMMISSIONER LIPSETT: Does that pipe line figure appear in the books, would you find out, Mr. Morrison? What figure does the pipe line appear at in the books?

MR. MORRISON: The 6 inch loop. Around $178,000.00.

A Around $178,000.00. That came down to a net of $102,000.00. There was $176,000.00 and the recovery was about $74,000.00. That is right in our report.

MR. COMMISSIONER LIPSETT: I have the figures, but are these figures taken exactly from the books?

A Yes sir. These are the exact expenditures and the exact credits.

Q THE CHAIRMAN: Any other questions?

MR. FRAWLEY: No more questions.

THE CHAIRMAN: That is all, thank you, Mr. Taylor. Will you refer to the discussion in yesterday's evidence as to the first column in Exhibit "109". I wonder if we should ask certain questions about that. If it is fully covered we do not want to.

MR. COMMISSIONER LIPSETT: I just tell you what I was interested in, Mr. Nolan. I do not know whether I should follow it up a little more before Mr. Taylor left. It has really to do with Mr. Maw. On your Exhibit A of Exhibit "100", you give in the year 1938 a figure of $324,252.85.

MR. NOLAN: Yes.

MR. COMMISSIONER LIPSETT: The proportion of the investment in utilities, and you spent a good deal of time with the witness contrasting that with Mr. Morrison's figures of $40,000.00 or $50,000.00 less. You then dealt with Exhibit "109", and the explanation given about that Exhibit was that it was put in for an entirely different purpose, not related to this Exhibit "100" statement A.

MR. NOLAN: That is precisely so.

MR. COMMISSIONER LIPSETT: Whatever the purpose Exhibit "109" was put in for, what I am anxious to find out definitely is what exactly is this figure $121,024.57 that appears in Exhibit "109"? Whatever the purpose the Exhibit was put in for, I would like to know from either Mr. Taylor or Mr. Maw what the $121,000.00 represents and where it is taken from.

MR.NOLAN: If you would like, Sir, I could call Mr. Maw now or when he comes back again. He is still in the box and perhaps it can be deferred, if you approve?

MR. COMMISSIONER LIPSETT: I am just directing your attention to it so if you wanted to hear Mr. Taylor on that. If not, then the other would be much more convenient.

MR. NOLAN: No, I am quite content to have it on Tuesday.

THE CHAIRMAN: Did not Mr. Maw discuss it yesterday?

MR. NOLAN: Yes sir, and I had the temerity to try and explain it at one stage myself. There was a good deal about it.

MR. COMMISSIONER LIPSETT: A tremendous lot.

THE CHAIRMAN: He said exactly what it was and where he got it.

MR.NOLAN: However, we will take pains to discuss it again, and we won't forget it.

MR. COMMISSIONER LIPSETT: It was only in case Mr. Taylor wanted to say anything about it that I mentioned it.

(At this stage the Hearing was adjourned until 10.30 January 30th, 1939).

....

The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta JANUARY 30th, 1939

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VOLUME 26 - January 30th, 1939.

WITNESS:

E X H I B I T S

. . . .

MR. FRAWLEY: I am calling Mr. Plotkins this morning.

LEON LOUIS PLOTKINS, having been recalled, examined by Mr. Frawley said:

Q You are still under oath, Mr. Plotkins?
A Yes.
Q You have this morning something to say on the pipeline phase of this inquiry?
A Yes I have.
Q Have you prepared a written statement?
A I have.
Q Are these the written statements which you have prepared?
A Yes, here is the Exhibit.

(REPORT PRODUCED BY THE WITNESS HERE MARKED AS EXHIBIT "122").

Q Mr. Plotkins, you live in Calgary, do you?
A I do.
Q What is your business?
A I am in the business of producing and refining and marketing petroleum products.
Q And under what, how many companies have you got, companies or partnerships?
A I operate under the name of Lion Producing Company as the producing unit and the Lion Refining Company as the refinery unit, both of those are registered names.
Q They are not companies?
A That is I operate under those names and I am also manager of the Lion Oils Limited, which is an Alberta corporation, distributing petroleum products which we manufacture.
Q You operate, let me understand you, you produce oil?

[illegible]

A Produce oil.

Q Where?

A In Montana.

Q In Montana?

A Yes.

Q You do not produce oil in Alberta?

A None except we have a well under contract.

Q Under what name do you produce oil in Montana?

A The name of the Lion Producing Company.

Q Which is yours?

A Which is myself registered as a firm in Montana for the State Department.

Q Then I will come back to that. Then you do not produce oil in Alberta?

A No.

Q But you do obtain production of oil in Alberta under contract?

A That is right.

Q With one of the wells in Turner Valley?

A Yes.

Q Passing from production, you are engaged in refining---

Q THE CHAIRMAN: The well in Alberta is?

A The Sunburst Oil Company Limited.

Q MR. FRAWLEY: It is called Sunburst No. 1, is it?

A Yes.

Q MAJOR LIPSETT: That is a separate company, that is not yours Mr. Plotkins?

A No, I have no direct interests in it.

Q MR. FRAWLEY: In the Sunburst Company?

A Yes.

Q Then passing to refining, you refine petroleum prdoucts, and how do you do that?

A Under the name of the Lion Refining Company.

Q And that again is yourself---

THE CHAIRMAN: Just a minute, which company has contracted with the Sunburst?

A The Lion Refining Company, and the Lion Oils Limited, both.

Q MR. FRAWLEY: Now let us understand that.

A Pardon me, I will look at the contract, I will correct that, it is myself, the contract is between the Sunburst Oil Company Limited and Leon L. Plotkins and Lion Oils Limited and Prudential Truck Company Limited.

MR. FRAWLEY: I think perhaps we might as well file this now.

A There is a copy to be filed, that is the original.

Q MR. FRAWLEY: Somebody asked me for this contract in any event so we will file it now.

THE CHAIRMAN: You are filing it?

MR. FRAWLEY: I will file it sir.

(CONTRACT WITH SUNBURST NO. 1 PRODUCED BY THE WITNESS HERE MARKED AS EXHIBIT "123").

Q MR. FRAWLEY: Now the Chairman asks under what name the contract was made for the production of the Sunburst Oil Company Limited, the Lion Refining Company is yourself, I wonder why the Lion Oils Limited was needed to be made a party to this?

A Because Lion Oils Limited as the marketing company, undertook to market the products which we manufacture, that is why it was taken in.

Q Then the answer to his Lordship's question is that both yourself as the Lion Refining Company and Lion Oils Limited, are parties to the contract for the production of the Sunburst well?

A That is correct.

MAJOR LIPSETT: Are there separate copies of this?

MR. FRAWLEY: No, there have been no copies made. It can be copied and it will no doubt be copied in due course by the reporter.

Q MR. FRAWLEY: Then that is how the refining is carried on then by the refining company, which is a partnership consisting of yourself?

A That is right.

Q Then you also distribute, you distribute petroleum products in Alberta and under what name do you do that?

A Well first we have also, I omitted to mention another company which is called the Lion Transport Company.

THE CHAIRMAN: Just a minute, we have not got to the refining, but you say there is a contract with the Sunburst, then we have the Lion Producing Company which produces oil in Montana?

MR. FRAWLEY: Yes.

THE CHAIRMAN: We have the contract between Plotkins, Lion Oils and Lion Refining Company and the Sunburst Company?

MR. FRAWLEY: The Sunburst Oil Company Limited.

THE CHAIRMAN: In respect to the output of the Sunburst No. 1 in Alberta?

MR. FRAWLEY: Yes.

Q MR. FRAWLEY: Then I was passing from producing, you are engaged in refining?

A Yes.

Q Who does that?

A The Lion Refining Company.

Q It is a partnership?

A It is a registered firm name.

Q It is yourself under that name?

A Yes.

Q That is just elaborate a little on that, that is done where?

A That is done here in Calgary.

Q You have a plant where, in Calgary?

A It is a quarter of a mile from the South City limits in the district called Manchester.

Q On the Macleod Tra l?

A On the Macleod Trail, along the C. P. R. right-of-way.

Q And there you conduct a refining business?

A That is correct.

Q Then you are engaged in distributing petroleum products?

A Yes, under the name of Lion Oils Limited.

Q You interrupted me to say there was another company, the Lion Transport Company?

A Yes, we have another division running under the name of the Lion Transporting Company, which operates a fleet of trucks.

Q Oh, so that would come in immediately next to the refining business?

A Yes.

Q Probably.

A It takes care of the production and the distribution of refined products.

Q And acts as a link perhaps between the refining and the production and the marketing?

A That is correct.

Q That is the Lion Transport Company, which is also yourself under a registered name?

A That is right.

Q THE CHAIRMAN: All these companies, are I take it not limited companies?

A All with one exception.

Q MR. FRAWLEY: There is one I am coming to now, sir, the Lion Oils Limited.

THE CHAIRMAN: That is the distributing company.

MR. FRAWLEY: Yes, now we come to the marketing and you are engaged in marketing petroleum products in Alberta and it is the Lion Oils Limited which carries on that business?

A That is correct.

MR. FRAWLEY: Now this witness, of course, will in all likelihood be called back when we get to other phases of the inquiry but at the moment I would like to discuss with him what we are at the moment concerned with, namely, the pipeline, the purchasing of crude oil in Turner Valley. Now, Mr. Plotkins, you had prepared a brief and I think that would be the best way to begin to discuss this this morning, for you to read the brief you have prepared?

A Yes.

THE CHAIRMAN: Is there anything in that contract which has been made to an exhibit which you wish to draw our attention, Mr. Frawley, I do not ask you to read it all.

MR. FRAWLEY: No, as a matter of fact I have never seen it before. The reason I wanted to offer it was that I was asked for it.

THE CHAIRMAN: I see Mr. Patterson is here.

MR. FRAWLEY: Yes, I think that should be noted.

MR. PATTERSON: I do not think there is anything in it, there is the contract under which the Plotkin Company takes production from the Sunburst, it is a sort of working capital.

THE CHAIRMAN: We accepted it as an Exhibit and I just want to know something about it before we pass on from it.

I might ask, you are appearing for Mr. Plotkins, Mr.Patterson.

MR. H.S.PATTERSON, K.C.: Yes, and for the Lion Oils Limited.

MR. FRAWLEY: Very well, Mr. Plotkins, proceed to put your brief into the record.

To the Honorable Mr. Justice A.A. McGillivray, Chairman,
L. R. Lipsett, Esquire, Commissioner
ROYAL COMMISSION of inquiry into the oil industry.

A " Before dealing with the pipeline phase of this inquiry, I first would take the liberty to place before the commission what I consider is a true and proper perspective of the Alberta oil industry and its problems and what I believe are the duties and obligations of this commission in the light of the programme of inquiry entrusted to be dealt and reported on by this Royal Commission.

In analyzing the actions of the oil industry in Alberta, it is necessary that we know and examine its background, and in this way we will find that the operations of the oil industry in Alberta are insolubly bound up with the activities and operations of Standard Oil and other companies on the whole North American continent.

Local operations of Standard Oil of New Jersey, through their Canadian subsidiary or controlled companies, with which we will deal in the main, in relation to the operations of local and other companies, cannot be intelligently examined, reviewed, or understood, unless they are considered as a component part of all the operations of Standard Oil not only in the territory in which Turner Valley crude and its products are normally marketed, but all the territory in North America in competition with Turner Valley.

" As all operations bearing on costs and competition in Alberta are directed not by local officers but by Standard Oil of New Jersey officers, the American head office in New York is in a position, and deals with any given competitive problems from the general interest of the company in the matter, without consideration of the local or Canadian interests involved, and this explains why the least detail of price or policy is directed and imposed by the New York offices of Standard Oil on all their direct or indirect subsidiary companies."

MR. NOLAN: Well now my Lord, I have not this document before me but is this witness swearing to these things?

THE CHAIRMAN: He certainly is.

WITNESS: I certainly am.

MR. NOLAN: I think the source of his information should then be disclosed, he is telling us what happens in New York. He says:

"And deals with any given competitive problem from the general interest of the company in the matter, without consideration of the local or Canadian interests involved, and this explains why the least detail of price or policy is directed and imposed by the New York offices of Standard Oil on all their direct or indirect subsidiary companies."

THE CHAIRMAN: Of course you will have an opportunity of cross-examining and showing that the report is without value if you can.

MR. NOLAN: You have not a copy.

MR. FRAWLEY: No, but I will give you mine.

" Working in a wider field, the New Jersey officers are able to correlate all their North American activities in such a way that they can, and do, bring about competitive conditions beyond the normal control of the people or government of the Province of Alberta and the Dominion of Canada.

It is within this framework and against such a background that the Alberta oil industry operates and as local Alberta companies are limited in the scope of their activities and practically incapable of meeting this type of competition, the operations of Standard Oil should be weighed and judged by the commission on the basis of its activities in Alberta, as the fact that they are a huge world-wide organization should not confer them in Alberta any special rights or privileges. On the contrary, their almost unlimited resources and the scope of their activities places them at a considerable advantage compared with small, local or Canadian companies, and it is my submission that the Canadian interest and the smaller companies should be protected if it is expected to create a Canadian oil industry owned and directed by Canadians, that would, if protected, serve more economically the consuming public.

It is with these facts and opinions in mind that respectfully make my submission:-

Firstly, I take it from the wording of the commission that the government of Alberta in the name and in the interests of the citizens of Alberta in particular and the citizens of Canada in general want you to determine and ascertain the actual cost to the

"industry of producing, refining, transporting, and marketing petroleum products and thefactors that constitute and influence these costs.

Secondly, the government is asking this commission to determine in the light of evidence and existing factors, whether the selling price or cost to the public in general of petroleum products is reasonable, having proper regard to costs. Is the selling price justified on the basis of true competition or otherwise, having regard to the conditions under which petroleum products are produced and marketed?

Thirdly, the government is charging the commission with the responsibility of determining the conditions under which the industry as a whole carries on the respective operations of production, refining, transportation and marketing, and report if they find any evidence of price fixing, restraint of trade, apparent competition but not in fact, policies and methods that are, or should be, illegal in the producing, refining and marketing divisions, which result in preventing competition from asserting itself, and determine if any or all of these policies do in fact regulate or prevent competition, influence costs to the independent part of the industry, and result in higher prices for petroleum products to the consuming public than would otherwise be the case.

To answer these questions intelligently, it is my opinion that the Board must of necessity determine and define what is meant by cost, as distinguished from values, as without an exact definition as to what will be accepted and used as a basis in arriving at the cost

"of producing products or services, the findings of the commission will obviously be inconclusive.

If the board accepts the views of Dr. Boatright and Mr. Edgar G. Hill that business in general has a perfect right to demand and take all the profits that competitive circumstances will permit them to obtain, then it follows that costs are relative, as values are based anddetermined by revenue possibilities and appraised accordingly, and final costs will then be in direct ratio to appraised values and earning power.

If the board takes the stand that costs are to be determined by physical intrinsic replacement values, then it must ascertain the costs of the individual items necessary to operate the properties and produce the finished products efficiently as purchaseable in the open market".

(Go to page No. 3179)

L. L. Plotkins.

" On the first basis we may have an operating oil property that can be duplicated for we will say $500,000.00, but in the light of the facts of the situation in which the owners find themselves, they are able to impose a price and sell their goods or services and earn $500,000.00 per year for a period of at least ten years. In such a situation, it would be considered customary and good business, and I understand quite within the legal rights of the owners, to secure the services of a competent firm of professional appraisers and justify a book valuation of $1,500,000.00 as on this basis of anticipated earnings, the property will be sure to pay out in three years.

On this setup we have created a property with earnings which may be according to my views out of proportion with actual invested capital and would be expressed or viewed as excessive returns, but according to orthodox commercial practice would be justified by the fact that the owners had the wisdom to create the property, took their chances, and risked their money in the enterprise, and as long as no competitor could prevent them from maintaining their position, their earnings would be their just reward, and according to Dr. Boatright and Mr. Hill, of no concern to the government of the country or the public.

On the second hypothetical setup, the owners would proceed to set down a capital book value of $500,000.00 and compute the cost of producing the goods or services on the basis of amortizing their $500,000.00 invested capital over the probable life of the assets plus the operating costs and a fair return on their invested capital. On this basis, cost plus profit would equal selling price of products or services.

L. L. Plotkins.

On the one basis, cost has no relation to selling price, this being determined solely on the ability of the owners to impose a price (this is the situation that prevails in Alberta), and any reduction in the cost of producing the goods or performing the services brought about by technological improvements, reduction of taxes, or labor, or increased volume of business is not passed on to the consumer in the form of reduced prices.

On the other basis, the selling price is in direct ratio to cost of production, (this is the situation forced on the independents in Alberta) and any reduction in costs is reflected in lower prices to the consumer.

If the Board accepts the position that business is entitled to all the profits that it can extract from the consuming public, as long as it is within its power to do so, then values for the purpose of determining costs must be appraised on the general theory of earning power, and it follows that there is no necessity for this inquiry except for the purpose of information, as was so candidly expressed by Mr. Hill.

It is obvious then, that the government has charged this board with the duties and obligations of reviewing the workings of the Alberta oil industry and determine what are the actual costs on the basis of replaceable values, of the properties used in producing petroleum products or services that are marketed to the consuming public. It follows that having established these costs accurately and weighing them against the selling prices of the products or services, the actual spreads or profits can be ascertained and it is for the commission to decide whether such profits are reasonable or otherwise.

L. L. Plotkins.

If the commission agrees that the above is a proper analysis of their duties, then it is of primary importance that we determine as clearly as possible how we must proceed to find out what we want to know."

THE CHAIRMAN: You think in the end we should have something to say of what our own duties are?

A I think the wording of the Commission is pretty plain. It speaks for itself.

Q If so, I wonder why you are taking up so much time in telling us what our duty is?

A Because I realize that the way the Inquiry is going on, in other words the method, at least that is my opinion now and what I am going to express now, is not going to lead us very far, because we have started with investigating books and we have forgotten to go out in the field and appraise the actual physical property. As long as we deal with books, and as I am going to try and show in my review, we are certainly not going to get a true picture of the industry and its costs and what it is. That is why I have gone to all this trouble.

Q Well go on?

" Being actively engaged in the business of producing, refining, transporting, and marketing petroleum products for the past nineteen years in the Province of Alberta, and the State of Montana, and having created and built up an organization that is successfully performing these various functions in direct competition with the large old-established companies, in the face of real obstacles, I believe the commission will

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L. L. Plotkins.

concede me the knowledge and ability to state correctly in a simple way what facts must be ascertained and what methods should be followed to determine actual costs and selling prices.

Before doing so, I should at this time make an explanation of why I say "in a simple way". The oil business primarily consists of producing the raw products, transporting them to the refinery, processing, and marketing the finished products to the consumer. The problem then, as I and every company large or small faces it in its own business, can be simply put as --- "What is the least cost at which we can produce or purchase crude materials for transport and refine them into saleable products and market them, and at what price should these products be sold to the consumer in order that we may provide for what, we will agree, is a fair return for our efforts, risk, and investment."

If you will, for the purpose of this determination, visualize the problem as stated above and disregard the existence of complicated artificial corporate structures or divisions and their system of accounting, you will then be able to ascertain accurately the respective elements that make up the true costs of producing and marketing the various products or performing the services.

Let us assume that you have determined the costs and in your opinion find selling prices excessive and you recommend that the government of Alberta should regulate selling prices to the public. The government will be faced with the obligation of fixing minimum andcmaxi-

mum prices for crude oil, transportation rates, reginory product prices, and retail and wholesale marketing prices, as unless all the phases of the industry are thoroughly regulated, it will be unfair to the industry for the government to enforce selling prices.

In my opinion, such wholesale regulation would create an impossible situation and could not be successfully carried out for the following reasons -- costs in all branches of the industry depend on conditions and circumstances, partly beyond the control of individuals, most corporations, and the Alberta government. The following observations demonstrate in my opinion the futility of any such scheme of regulation.

Today we will say it costs a major company for machinery and labor $95,000.00 to drill a crude oil well in Turner Valley and in a short time improvements in drilling equipment and lower costs of materials result in cutting drilling costs to $60,000.00, and better determination of the structural conditions of the producing horizon, as well as improved acidizing and producing methods result in obtaining 50% increased crude recovery from this well, it follows that if it now costs a major company 75¢ to produce a barrel of crude in Turner Valley, the costs of production could probably be reduced to 50¢ a barrel.

We will assume that at the present time it costs a major company in Alberta 30¢ to refine a barrel of Turner Valley crude into gasoline and fuel oil and they recover 72% standard grade gasoline from that barrel of crude, and in a short time a competitor of

that company installs a new processing plant that produces 85% Ethyl grade gasoline from the same barrel of crude and the cost to the first company of producing a gallon of standard gasoline which is now 4¢, is reduced 25% to the second company, not taking into consideration the improved quality of the product of the new plant."

THE CHAIRMAN: Before you leave that it may be of interest to Counsel to mention, while it is present in my mind, an article brought to my notice by Major Lipsett recently in the magazine "Fortune". Have you seen that?

MR. TRAWLEY: On the Houdry process.

THE CHAIRMAN: Yes, on the Houdry process of refining.

A That is what I have in mind, Sir. We are in a constant flux in this oil business at the present time.

" In the marketing end, we will say that it now costs a major company 3½¢ to distribute a gallon of gasoline to the consumer and then by a re-arrangement of marketing facilities and by a change in policy, the costs of distributing of the second company are reduced to 2¢ a gallon.

Let us assume that the government, through this commission, decided under given conditions that standard gasoline should sell for 12¢ a gallon "ex taxes" and one company was able shortly after to sell, because of lower crude costs and a new improved process, a considerably better gasoline for 10¢ per gallon, would the board then say to that company-- "You must sell at

12¢ and penalize the public", or would they permit the company with the improved gasoline and lower costs to obtain the greater share of the total business, because it puts indirectly the greater margin of profit the board forces on it, into extra free services, thereby causing the other plants to go out of business? What position would the board take under these various circumstances?

It must be kept in mind that developments in the United States or foreign countries affect our operations, and influence our costs and values and to that extent we are forced to consider values on the basis of competition, which further complicates the problems of setting prices right down the line.

We will assume that the board orders the field price of average pipe line gravity Turner Valley crude to be $1.20 per barrel, and at this price the independent refiners in Saskatchewan, Manitoba, or British Columbia, over which the Alberta board has no control, can and do secure crude from other sources at a laid down cost of higher economic value to them, and as a result of curtailed market, the cost of producing a barrel of Turner Valley crude oil rises from 75¢ to $1.00, and it is required and decided that the Turner Valley crude in the field be sold at 90¢ in order to displace the competitive crude. How would the board act with respect to the Alberta selling price of gasoline in the light of the increased cost of producing Turner Valley crude?

I could continue from experience to cite further problems of competition, but it is obvious in my experience that the board could not do justice to all

parties either in the industry or the public, and that government control of prices cannot but result in the government throwing up its hands after the industry has been completely disorganized under the attempts of the regulatory bodies to control the details of the business. For the government to take over, (even if this could be done under our constitution) and go into the producing, refining, and marketing end of the oil business would, in my opinion, result in higher costs, poor quality of products and services and higher prices for the finished products to the public, as the industry is obviously too complex in its operations for government management.

Our only alternative, under our present competitive system, insofar as it applies to Alberta is to treat the problem on the principle that legitimate business is, (within the law) better able to deal with its problems than the government and is entitled to all the legitimate profits it can make and to this theory I subscribe conditionally.

Let us examine in principle this method of doing ~~business,~~ as it is, in my considered opinion, the ideal and the natural way, for the oil industry in Alberta and Canada to meet ever changing technical conditions, constantly improve its products, and lower costs of production as well as serve the public better and at less cost.

This method is really the application of the natural law of "raison d'etre" and "survival of the fittest", and if not artificially prevented or interfered with, does result in the greatest good to

the greatest number of people and in the production of constantly better products and services at lower costs to the consuming public, for the following reasons. A monopoly cannot possibly exist (in Canada except by perversion of the law) under a free competitive system, except on the basis of one unit of the industry giving the public a better product or service for less money, and until another unit can and does devise methods and means of producing and giving a better product or as good for less money, the first firm in the natural scheme of things will continue to monopolize the greater part of the business, supply the goods, and enjoy its profits.

By actual experience, we know that a practical monopoly, legitimate and based on greater services, cannot under constantly changing technological improvements and the flux of one product of industry displacing another when it can perform the service better, cannot exist for very long and we can, for the purposes of this inquiry, safely assume that the major companies have no monopoly on brains in the form of technological or management ability.

Here in the Province of Alberta, we have an oil industry completely integrated within the borders of the province, with its own crude supply, refineries, transport and marketing facilities, and apart from minor factors, such as patents and certain equipment and supplies, can perfor all the required functions from well to consumer entirely from its own resources.

The problem of the commission then is to determine if the principle of competition, on the basis of "survival

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of the fittest", is effective in Alberta, which principle normally results in giving the public petroleum products and services at reasonable prices and prevents price fixing and monopoly, and determine if all the people engaged in producing, transporting, refining, and distributing are enjoying an equal opportunity to compete in any or all the phases of the industry; that is, are the independent local companies and individuals on an equal competitive basis with one or all of the major companies, or are they placed in such a position that it is practically impossible for them to play their part in a natural way in preventing the building up of a practical monopoly in Alberta in this industry.

To answer these questions fully and ascertain the facts, insofar as the operations of the Standard Oil company of New Jersey and its subsidiaries and other major companies in Alberta are concerned, the commission should disregard the existence of arbitrary overlapping corporate structures, under which they at present carry on as well as in a measure ignore the regular accounting records of these operating companies, and ascertain what it does in actual fact cost them to produce and market the products and services, and by what methods they are able to obtain the power to set prices and values and maintain, what amounts in actual practice, to absolute domination of prices for crude and the conditions of sale of refined products.

To answer these questions fully, the commission

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should not investigate each phase of the industry by arbitrary overlapping corporate divisions, but the industry's activities as a whole in their natural order, and then co-ordinate them, as setting pipe line rates alone means exactly nothing in the end either to the public or the industry (unless it is co-ordinated with all the other phases), but ascertaining the fundamentals of the whole business from start to finish will show the conditions that are forced on the independent portion of Alberta industry and the public as a whole.

All of the physical work required to actually drill the wells, produce and process the oil into products to be delivered to the consumer, is the sum of very simple, well understood, natural actions of labor and thought applied to the task at hand step by step, until the products are actually delivered to the consumer.

There is no mystery in the processes, either in the efforts required or in the results to be expected, and on the average the risk involved in the unknown factors or the percentage of error in dealing with any of the imponderables is determined accurately by major and well-organized independent companies in the light of average experience, and provided for in the final estimated costs.

The sum total of the multitude of simple steps taken by the industry in performing its functions constitutes a highly scientific complex organism,, and successful co-ordination into a harmonious and working whole requires able generalship and a general staff of highly specialized division officers as well

as a properly trained personnel.

But when it is all said and done, after all, no matter how scientific (science is best defined and is the orderly arrangement of knowledge or simple facts) or complex (it becomes complex only when we co-ordinate for use the application of a series of simple related facts into a working whole) the organism is, we can dissect its component parts in order to determine costs and values.

The problem of ascertaining true costs that I have pictured to you, is not exactly a simple one, if we take into consideration the complicated corporate structures that have been built up by the major companies in order to produce and market petroleum products, and which we should in this instance disregard, but once each element or step in the process structure is ascertained, described, analyzed, and correlated with the next step and with the whole and final costs arrived at, the answers will be found to the many questions, apart from costs and selling prices, the commission is considering.

Are prices to the public for products reasonable or excessive? Are there too many companies with excessive distributing facilities to artificially increase distributing costs? Is the production of crude unlawfully controlled to the detriment of the independent companies or the public? Is competition in the refining and marketing of petroleum products by independents crushed or controlled to the detriment of the independent and the public? Do the present laws of Alberta and Canada tend to or prevent the

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independent companies from effectively competing with the major companies? Are strong-arm methods used by the major companies in wiping out or preventing competition? Are prices of crude and refined products unlawfully fixed by Standard Oil of New Jersey through its Alberta subsidiaries? Is the engineering firm of Ford, Bacon and Davis of which Mr. Edgar G. Hill is an employee of, a part of the Standard Oil system of engineering appraisal legal and management firms owned jointly or individually by Standard Oil Companies? Is the engineering firm which employed Dr. Boatright and Mr. Knode, Chairman of the Conservation Board, also in the same category?

In the true answers to all these questions, you will in my opinion find most of the reasons for the situation that exists in Alberta and why competition by independent Alberta companies to Standard Oil Companies is stifled."

Q MR. COMMISSIONER LIPSETT: What do you mean by asking are the prices of crude and refined products unlawfully fixed?

A Do you refer to the laws of Alberta or Canada?

Q There is no suggestion of any unlawful act is there?

A If they conspired together or through the means at their disposal are able to impose a price, my understanding is it is in defiance of the laws of the country which prohibit a monopoly and prohibit any company from creating any condition that they can fix prices. Because that is the whole matter, is the fixing of prices. Without the ability to fix the price, the whole structure topples.

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" It will also become apparent why Alberta and Dominion government legislation to remedy the obvious ills of the industry are neutralized and made ineffective and in the end accomplish exactly nothing, but have instead the effect of placing the independent companies more and more into a straight jacket and further curtail their legitimate competition.

It will show you how and why the petroleum wealth of the province is now completely under the control of Standard Oil and managed so as to drain 75% of it, as clear profit to the major companies, which profits are withdrawn, when it suits their purpose, from the country and escape the payment of taxes to the detriment of our national and provincial economy.

In this review I have necesssrily covered the subject in an objective way, as guidance for the commission in investigating this industry, and I believe they will fail in their duty to the government and the citizens of Alberta if they do not do their best to return unequivocal answers to the questions I have propounded, as for my part, I have made up my mind and I am in conscience bound to put forth all efforts in my power towards bringing about a remedy for the ills under which we, the independents in the industry and the people of Alberta and Canada suffer, no matter what time or expense is required.

If the commission finds a wide discrepancy between the cost of production and distribution and the price paid by the public not reflected in the reported profits of the corporations, and if it is found that the Standard Oil of New Jersey

and its subsidiaries and other major companies have, through unlawful means, created non-competitive conditions and thereby obtained profits which otherwise would not be accrued to them, and have as a result of their complicated overlapping corporate accounting evaded the payment of lawful income and other taxes, and if it is found that they conspired illegally and carried on their business in such a manner as to crush or prevent competition, then it is suggested that the commission should recommend immediate drastic action by the Provincial and Dominion governments under the criminal code of Canada and that the competent authorities take steps to reestablish the entire oil industry in Alberta and Canada on a true competitive basis, not by further legislation, but by rescinding the existing restrictive statutes under which this artificial competitive system has been created and protected by existing laws.

Respectfully submitted, "

Now I am going to deal with the pipe line.

Q THE CHAIRMAN: It is very good of you to come to that. In the meantime you have by innuendo and indirect statements suggested criminality. Later are you supporting your charges with evidence?

A I will in due time, Sir.

Q This is just to prepare us for what is to come?

A Yes Sir.

Q All right. We will come to the pipe line. Just one more question is suggested to me. There is a suggestion here that the firm of which Mr. Hill is a member, and who was

[illegible]

[illegible]

a witness before us, as well as the firm of which Dr. Boatright is a member, are perhaps controlled by the Standard Oil of New Jersey. Why didn't you ask then when they were in the witness box if you had such a suspicion?

A I am not at this time in a position, at least I do not believe it is wise for me at this time to go into these matters because unless I am able to prove.....

Q You are making an assertion against or at least with regard to two men?

A Two firms.

Q Why didn't you ask the witnesses who were in the box as to whether or not that was true?

A I was not in a position at that time to ask intelligent questions and support them. I will be when the time comes to do that,

Q When these people are not here to make their answers,

A You can bring them back if you see fit, if the Commission sees fit.

Q All I want to make quite clear to you, Mr. Plotkins, is that in the Courts of this country and before this Commission we do not expect to predicate our findings upon any wild statements?

A I realize that.

Q We will now expect you, having made the observations you have, to endeavour to support them?

A That is correct.

Q If you desire to have your evidence considered of value, by this Board?

A Yes sir.

Q I still am, notwithstanding your explanation at a loss

to understand, if you believe it to be so, why you should not have asked Mr.Hill and Dr. Boatright, as to whether or not their firms were controlled by the Standard Oil of New Jersey. It was a simple question, easily put, quite as easily put as making the insinuations with regard to them as you now put forward.

A For the time being I think I will have to accept your observations, Sir.

Q You certainly will. Now proceed with your pipe line.

A Perhaps at this time it would be pertinent to make an explanation, after thinking the matter over. I asked, through my solicitor, to have an interview, a private interview with Commission Counsel, Mr.Frawley, and tell him that I had private confidential information to submit, that I felt should be submitted in private as it would prejudice my later representations at this stage, and as far as I know it was not considered necessary to do so, and that is why I am in this position at this time.

THE CHAIRMAN: All right.

Go to Page 3196).

"Calgary, Alberta,

January 17, 1939.

EVIDENCE GIVEN TO McGILLIVRAY COMMISSION
Pipe Line Phase.

After it appeared reasonably certain in 1937 that sufficient crude oil would be produced in Turner Valley to care for Alberta requirements, we made representations to the Alberta authorities extending over most of the year 1937 to secure the promulgation as law of then existing pipe line act and asked that regulations be set up to make the act workable and the facilities of the Royalite pipe line made available to independent refiners and producers under a properly published public tariff.

These representations to the Department of Lands and Mines and the Public Utilities Commission did not produce any concrete results except continued promises and delay. In the meantime it was costing us 35¢ a barrel to transport our crude by truck from Turner Valley to Calgary apart from the fact that it was difficult to secure enough tank trucks and penalized our company to the extent of 20¢ a barrel, making it in part impossible for us to compete on an equal basis with the Imperial and B. A. Companies in the refining and marketing of our products.

We finally came to the conclusion that our best plan was to forget about the government and negotiate direct with the Royalite company for the best deal we could get on purchasing our requirements of crude oil and having it transported through the Royalite pipe line to our refinery in Calgary.

We accordingly communicated with Imperial Oil Limited (see correspondence Nov. 12, 13, 30 and Dec. 30, 31) through Mr. C. M. Moore, Superintendent of the Calgary Refinery, and this resulted in Imperial Oil Limited selling us crude at 1.72½¢ per barrel for 48/49 gravity, F.O.B. the Imperial Refinery in East Calgary. This necessitated our transporting the crude by

tank truck from their refinery to our refinery at an additional cost to us of 9¢ per barrel (plus the extra investment in tank truck equipment) .

We were informed at the time that the existing pipe line could not take care of their own business at all times and that the arrangement referred to above was fairly tentative and was on a month-to-month basis subject to their own requirements and prior commitments (this meant that we were put in a position where we could not offend the Imperial Company without risking to lose our supply). This temporary condition was to be clarified when the new 6" trunk pipe line, then being under construction, was completed.

Along the first of the year 1938 we were advised by phone by Mr. C. M. Moore that in future our dealings would be direct with Royalite Oil Company. We then continued our negotiations with Mr. McLeod, President of the Royalite Oil Company, our aim being to secure a direct connection on the trunk pipe line and obtain a contract basis covering the gathering, storing,and delivering of the crude oil to our tanks in Calgary.

Our aim was to secure a separate pipe line agreement with Royalite Oil Company as we would then be free to buy our crude on the open market and, if this could be accomplished, our marketing operations would be less subject to the marketing influence of Imperial Oil.

Following an interview with Mr. McLeod, we accordingly advised the Royalite Oil Company by letter on January 11, 1938, of our desire to secure a direct pipe line connection and requested a definite pipe line tariff arrangement with them. This letter and other interviews with Mr. McLeod and Mr. C. M. Moore resulted in further temporary arrangements whereby we were to have our crude oil purchases delivered from the Imperial

Refinery in East Calgary to our refinery through the existing 2" line connecting the Imperial with the Bell refinery which joins our refinery property on the North by extending this line 1,500 feet at our expense and the rate for this pumping that was imposed was an extra 6¢ per barrel payable to the Imperial Oil Limited or a total of 21¢ and we were to accept the deliveries at the convenience of Imperial Oil.

We have continuously protested for a direct connection and against this rate of 6¢ a barrel additional over the regular pipe line rate, especially as the gauging for both our deliveries and the Bell's purchases of crude and finished products was performed by the watchman at the Regal plant nearby, the cost to Imperial of pumping this crude to us being ascertained by our engineers spread over the season's deliveries as under 1¢ per barrel.

In April, 1938, we discontinued purchasing our crude from Royalite as we had made a contract with the Sunburst Oil Company Limited, an independent producer, for the output of their #1 well in Turner Valley with an initial production of 900 barrels daily. This well took care of all our requirements and enabled us to ship crude oil over and above our own refinery needs to two other independent refineries, one in Saskatchewan, and one in Northern Alberta.

With our own controlled supply of crude oil in Turner Valley, our relationship with Imperial Oil Limited and Royalite underwent a complete change, and we found that where we shipped Turner Valley crude to our refinery customers, we were better off (as long as we could not get a direct trunk line connection) to pay Imperial Oil 5¢ a barrel to load our tank cars direct at the Imperial plant in East Calgary, as if we did this loading ourselves, our cost would be 15¢ plus 6¢ plus cost of loading

which we figure at between 1¢ and 1½¢ a barrel.

The result of this extra 6¢ a barrel and 5¢ loading charge and the fact that we now controlled our own crude supply, made it profitable for us to truck the crude ourselves from Turner Valley into our refinery in Calgary whenever our trucking equipment was not more profitably employed.

Another complication set in at that time in our dealings with Royalite. At that time there was no government Conservation Board and any restriction on production placed on producing wells was imposed by Royalite and B. A. on its contract holders and as Imperial or Royalite had not a contract on the production of Sunburst No. 1 Well, this well was allowed to produce to its optimum, as we could market all such production. At this time Royalite pipe line officials refused to accept more than the amount of crude they calculated would be produced if the well was under contract to them. First the plea was that the existing pipe line could not handle any more crude and that we were sharing in its carrying capacity. Then, when the 6" line was finished, we were frankly advised that Royalite would only transport the same percentage of crude oil in relation to potential as determined by government engineers as they purchased from their contract holders. Under these conditions, we decided to truck the difference between the Imperial allowable and this production of the well.

We also continued to transport by tank truck the production under contract to us of the Hylo well, part of the Publix and structure wells in Turner Valley, these wells producing high gravity crude or naptha, as it was more profitable to purchase direct from the wells and truck the production, as purchasing high gravity crude from Imperial Oil was prohibitive.

Our records show that for eleven months ending November 30,

1938, we purchased 115,695 barrels of crude in Turner Valley and 11,807 barrels of plant naptha, a total of 127,502 barrels that normally, with a pipe line rate of 15¢ a barrel, would have gone through the Royalite pipe line and paid them a revenue of $19,125.30 plus $616.70 we paid Imperial for loading cars for our account, and not to mention the profit on overages.

As a result of the high rates charged our company and the refusal to transport the oil produced over their allowable, we only shipped by Royalte line 63,643 barrels or less than 50% of the crude and plant products we purchased in Turner Valley and this figure would have been further reduced if we had been able to obtain our own production earlier in the year.

The high pipe line and handling charge was also a direct cause of our company purchasing a further 24,827 barrels of finished gasoline in Montana, which, had we manufactured this ourselves, would have required an additional 33,750 barrels of Turner Valley crude on the basis of 21¢ per barrel pipe line cost the laid down cost of crude oil in our refinery made it unprofitable to invest in cracking equipment in 1937.

As matters stand at present, the Royalite Oil Company has, through Mr. McLeod the president, tentatively agreed to give us a direct connection with the trunk pipe line and it is understood we will be given a contract in writing covering rates, storages, loading and handling, and clearing balances on month ends, so that our business will be on a stable pipe line basis instead of on sufferance as at present. The difference of 6¢ a barrel that we will save in 1939 on our estimated requirements of 200,000 barrels of crude will amount to $12,000.00, not taking into account the saving in loading tank cars depending on the number of cars we ship.

I want to read a letter dated June 24, 1938, addressed to

the Public Utilities Commission. This letter outlines the present pipe line situation as it affects our operations and our position today is exactly the same."

WITNESS: That is on the back, it is a letter to Judge Carpenter, it is the fourth sheet from the end, dated the 24th of June, 1938.

"Judge Carpenter, Chairman,
Board of Public Utilities,
EDMONTON, Alberta.

Dear Sir:-

Thanks for the time you afforded me on Friday afternoon, June 10th, to briefly outline my problems and also for the information you were good enough to give me with respect to the Pipe Line Act as it now stands.

It is evident that the present act and the existing regulations thereunder, outside of engineering and related technical matters, cover only the matter of making a pipe line a common carrier and setting carrying rates. As explained to you, the related matters of regulating field and terminal storage and setting up of a tariff of charges to be made by the pipe line company for these services, have not been provided for in the present act with the result that the pipe line company now imposes conditions of storage and delivery that are arbitrary and exorbitant and prevent us from obtaining the advantages that should accrue in having the oil transported by pipe line instead of by truck.

Our case will illustrate this. On April 1, 1938, we purchased under contract the entire production of the #1 well of the Sunburst Oil Company in Turner Valley and endeavored to make arrangements with the Royalite Oil Company for the gathering and delivering of this production from the tank at the Sunburst lease in Turner Valley to our refinery site in Calgary. We were informed by the officials of the company that

no provisions existed for gathering and transporting any crude oil other than the purchases of the Imperial and British American Oil Companies but the matter would be referred to their head office in Toronto. We were later advised that the Royalite Oil Company would accept only an amount of crude oil equal to the prorated amount purchased from time to time by the Royalite Oil Company from their contract holders. We were also informed that a rate of 15¢ per barrel would be charged us for gathering and transporting the crude oil from the field in Turner Valley to the Imperial Refinery at Calgary and that this rate would not include storing, handling, and delivering at the terminal in Calgary.

A further charge would be made of 5¢ per barrel for storing, handling, and loading into tank cars on the railroad and 6¢ per barrel for storing, handling and delivering from the Imperial Oil Refinery in Calgary to the Lion Refinery in Calgary -- a distance of 11,500 feet -- providing our company completed the pipe line from its terminus at the Bell Refining Company to our storage tanks -- a distance of 1,500 feet.

We requested the Royalite Oil Company to advise us whether the above rates of 5 and 6¢ per barrel included the 30 days' free storage usually provided by pipe line companies with which our wells in Montana are connected and to state the charges and conditions for storing oil after thirty days and asked that a copy of their pipe line tariff, defining our mutual rights and obligations, be furnished us -- we were informed that a form of contract would be worked out and submitted for our approval. To date this form of contract has not yet been submitted to us.

As moving oil by pipe line is much more satisfactory, efficient and economical than other present methods, we should

be entitled to ship our oil by pipe line on reasonable conditions and we would ask for a public inquiry to determine the conditions under which the crude oil and gas pipe lines should be operated.

We enclose for your guidance copies of tariffs of typical Montana pipe line companies and no doubt by referring to the proper authorities in Montana, you should be able to secure copies of their acts and regulations governing crude oil and gas pipe lines operated as common carriers.

As this question of pipe line operations is a vital part of the cost of gathering, processing and marketing the products of crude oil, it should not be treated by the Alberta government as a separate entity but co-ordinated with the laws and regulations governing the other phases of the industry.

As there is now constituted a Conservation Board that is empowered to direct almost all the activities of the oil industry, that Board in our opinion should be charged with the duties of administering the regulations under which the common carrier pipe lines operate both for gas and oil lines.

As we have pointed out in our previous letters, considerable delays seem to develop in getting any action from the government with regards to these various matters and these long delays stifle individual initiatives and react to the advantage of the big companies and I would respectfully ask that action be taken at once to hold an inquiry and pass regulations so that we obtain the use of the pipe lines on an equitable basis at an early date.

Yours respectfully,"

" Digressing a moment from crude oil pipe line transportation, I may be permitted to mention briefly that Imperial Oil Refinery enjoys the use of the Calgary Gas Company pipe line from Turner Valley to Calgary and that the

Refinery is supplied with all its requirements of natural gas at a flat nominal charge for transportation only and no doubt the B. A. Refinery will enjoy the same privileges.

This arrangement has the effect of material savings on the cost of refining crude oil as besides saving the cost of fuel oil that would otherwise be burned, no 8% Dominion sales tax is payable on gas burned as fuel, whereas we are assessed and pay 8% Dominion sales tax on the fuel oil we burn to process our crude oil.

At this time we want to take this opportunity of expressing our entire satisfaction with the pipe line service and with the capable and efficient way the officials and employees of the Royalite pipe line carry out their duties and only hope that they will continue to give us the same courteous and efficient service they have given us in the past.

Resuming, our position is in part clearly stated in our letter to Mr. J. J. Frawley dated December 9, 1938, which is enclosed."

That is the last letter, and I think it is important that I should read it, it is addressed to "Mr. J. J. Frawley, Court House, Calgary, Alberta." and it is dated December 9th,1938.

"Dear Mr. Frawley:-

Speaking for our refining company which uses the Royalite pipe line to have the crude oil it purchases from the producer gathered in Turner Valley and delivered into our refinery tanks in Calgary, we feel that the pipe line should be legally declared a common carrier and its rights, duties and obligations properly defined as they are defined under the Montana Statute in respect to oil pipe lines; and an approved tariff published covering conditions and rates for transportation,

storage and handling pipeline connections and other relevant matters such approval by the Conservation Board to be made only after a proper hearing.

We ask that as the pipe line is the most efficient method of transporting and handling oil, and as it performs this service at considerably less cost than other known methods, that rates should be set by the company and approved by the Conservation Board on a basis of cost plus a reasonable profit on the theory that it is performing a public service in exchange for privileges granted by the Province under its Charter of Incorporation, and the industry and the public is entitled to receive the reduced cost benefits that accrue in this method of transportation by being reflected in reduced charges.

In the matter of storage, we ask that the Royalite pipe line provide a reasonable amount of storage space and accept oil for storage in proportion to reserve stock requirements, taking into account our marketing conditions and that rates be set by the Royalite after approval by the Board after a public hearing based on cost and a reasonable profit and in keeping with similar rates in Montana.

We wish to point out that these requests are based on a free crude market where each producer and refiner looks after his own market requirements, but while we operate under the system of government proration of production to market, the Imperial Oil Limited and the Royalite pipe line are in the position of a common carrier and purchaser and there is no reason for anyone outside of the pipe line company to accumulate crude oil in storage.

We would ask that the pipe line company give our refinery a direct connection with the main line and eliminate the present burden of 6¢ a barrel additional we now pay over the 15¢

to have our oil delivered from Imperial Oil refinery to our refinery, a distance of two miles.

This additional handling is wholly unnecessary and burdens us with additional expense of $24.00 per day over and above regular pipe line charges of 15¢ per barrel and is unjustified except on the grounds that we are a competitor of Imperial Oil and any increased costs they can burden us with makes it that much more difficult for us to compete with them and give them additional revenue, besides other disabilities we may suffer by getting inferior crude for our purpose out of Imperial refinery tanks instead of straight out of the pipe line.

We offered to install the necessary 1,500 feet of line from the main line to our tanks and install the line and tanks to their engineer's specifications and directions but this was refused on grounds of policy. This extra charge of 6¢ a barrel makes it impossible for us to ship our own crude in tank cars to our customers and forces us to pay 5¢ a barrel to Imperial Oil to perform this service for us that we can do ourselves for about 1¢ a barrel, besides giving them valuable information as to whom we ship.

As we have been pressing this matter of pipe line tariff since December 30, 1937, or about one year, by numerous requests to all the authorities concerned, with absolutely no results to date, would it not be possible to get some action without waiting for the commission reports, at least in the matters requested apart from the question of rates, that is whether they are reasonable or otherwise. I would appreciate being advised when you want me to present my brief on this pipe line question.

Yours truly,

Leon L. Plotkins."

"In considering the matter of pipe line rates and regulations, it should be borne in mind that the Royalite pipe line is primarily engaged in transporting the crude requirements of Imperial Oi and it is not unnatural to expect that Imperial Oil Limited will use the pipe line to secure additional revenues and wherever possible to hamper, har ss, and control the operations of competitors.

In Turner Valley this is expressed by setting market allowables in co-operation with B. A. Oil Company that effectively regulates the income of contracted independent wells and (where monies have been advanced) prepare the way for their acquisition or control on their own terms so that their production does not become av ilable to independent refiners.

The Royalite, by various methods at their disposal in combination with Imperial who make it their business to control directly or indirectly the markets for refined products and indirectly the major part of the crude, in order to have the undisputed power to set the field price, can actually produce and acquire crude oil at unbelievably low cost prices.

The pipe line facilities of the Royalite Oil Company is only one of the many factors that are available to Imperial Oil Limited for maintaining and imposing its will and prices of crude and finished products on the producers and the rest of the industry; it is our opinion that as it is not possible in practice to separate entirely the activities of the pipe line division from the balance of Royalite activities, the pipe line division should be treated as a public utility and a rate set that will amortize the actual investment at cost over a time in keeping with circumstances plus reasonable allowances for administration, operation, and maintenance and 8% interest, and this we believe based on our calculations of investment and expenses would be obtained by a rate of 5½¢ a barrel, and with

respect to deductions for pipe line losses, our suggestion would be to have the overages or shortages made up periodically prorata to the shippers.

In concluding we submit the following. The Royalite Company, through its operation of the pipe line, uses its power of interfering in independent business by refusing to transport independent crude produced except it conform to their prorated production rates previously imposed by themselves now, it is to be hoped temporarily, imposed by the Conservation Board through their nominations, no high gravity separator naphtha or plant naphtha is available at pipe line price to the independent refiner as they, the Royalite, have it practically all under contract and will not sell it at any price, and provision should be made to have a pipe line rate set for transportation of separator and plant naptha when available to independent refiners."

What I mean there, there are three products being transported in Turner Valley and so far we have only talked about crude and endeavoured to paint the picture that all lines were necessary for crude and, therefore, the investment in the whole should be considered.

"By causing the laid down cost of crude to be relatively high to the independent refiner with a narrow spread between cost of crude oil and the competitive market value of refined products the Imperial, through their control of Royalite pipe line, can and do control the competitive activities of independent refiners and marketers who are thereby prevented from obtaining crude oil from independent producers direct and from investing in cracking equipment to produce standard gasoline and Ethyl products, as he cannot justify the investment and is thereby confined to the production of second grade fuels with restricted markets and forced to purchase his standard and Ethyl gasolines

from Imperial directly or indirectly at high prices with no profit to himself.

While it is true that we represent a small percentage of the total industry, we wish to correct the impression that the operations of our companies are very small or insignificant, and to illustrate, will quote a few figures from our records -- Lion Oils Limited, Lion Refining Company and Lion Transport Company, the refining, marketing and transporting end of the business for the year ending December 31, 1938.

Sales exclusive of 7¢ Provincial gasoline taxes and income from trucking operations totalled $658,872.41, and paid salaries and wages to an average of thirty employees totalled $44,187.43, and we believe that we should be given the same consideration as other large companies engaged in this oil industry if it is intended to foster the development of a free and efficient native oil industry, as it is our opinion that given a free field in which to work, we can successfully meet any major company competition.

Respectfully submitted

"Leon L. Plotkins" "

Now, I have given tables here showing our purchases from the various sources in gallons and in barrels and their value and for the purposes of showing that the average through-put that we would have, that the average amount of crude we would have put through the pipe line in 1937 if conditions had been favourable, would have been 420.72 barrels per day as an average for 365 days.

Q MAJOR LIPSETT: Is that the total of the first two columns, the Imperial Oil and the Hylo crude?

A And the Hylo, and the Texas Company, and so forth, we bought from apparently nine companies, our requirements,

[illegible]

some in Alberta, most of them in Alberta and some in Montana. Then we have another table of actually what did go through the Imperial Oil and through the Royalite pipeline and how many barrels were purchased from Royalite along with what we purchased from other producers or sellers, and I have a note here

> "Difference between crude delivered to pipeline and crude delivered to refinery and loaded on tank cars amounting to 17,689.62 barrels was purchased from Imperial Oil and paid for."

That is the amount which we needed over and above the amount we bought elsewhere to take care of our requirements and.....

Q MAJOR LIPSETT: The first column of 49,954, was that what went through the pipeline?

A That is the third column, crude delivered to tank cars, the third column is what the Imperial for our account delivered or loaded into tank cars, 12,333.70 barrels.

Q And then the centre column is what went to your refinery?

A That is what the Imperial delivered, that is what the Royalite and the Imperial delivered to our refinery, 51,309.92 barrels.

Q Does that include the 45,954 in the first column?

A No, the 45,954 is what we delivered, that is what crude oil we purchased from the Sunburst well, and delivered to the Royalite for delivery to us, and that is why I made the note at the bottom, that we had to purchase 17,000 odd barrels to make up what they delivered to our refinery, and what they put to our account, because the oil which we had purchased from Sunburst was not sent......

Q That is what I was asking, Mr. Plotkins, this 45,954 delivered to the pipeline is included in the 51,309 which you got back?

A That is correct.

Q From the pipeline?

A Yes.

Q Plus what you got from Imperial?

A That is it, and the bottom figures is what we actually paid to the Royalite for transportation and handling.

Q MR. FRAWLEY: Mr. Plotkins, I was expecting you were here to-day to make some comments on the pipeline phase of this Enquiry, so that there will be no misunderstanding about it, you delivered to me some time ago that part of the brief which begins "Pipe Line Phase", dated January 17, 1939?

A That is correct.

Q And a few days ago, in fact you delivered to me within the last, just at the week-end, I think, the new document beginning, dated January 26th, and occupying the first part of this brief?

A That is correct.

Q Now, I do not intend, certainly at this stage, to ask you anything about the general comments here, with just one exception, because there may be a time and place if it is considered necessary at all, to question you about the other matters covered in your brief, but I do want to ask you this, have you got any good reason for saying that the Chairman of the Conservation Board is, or the firm of which he is a member, the engineering firm of which he is a member, is under the domination and control of the Standard Oil Company of New Jersey?

A I will answer that question in this way, I do not think you people should be quite so concerned about the statements I have made, if you take into consideration the fact that the American government some years ago investigated the

activities of Standard Oil and at that time it was found that the very facts that I am......

Q Look, Mr. Plotkins....

A The features which I am now bringing forth took place.

Q Mr. Plotkins, did any American investigating committee find that Mr. W. F. Knode or the firm of Parker, Knode, Foran & Boatright were in any way under the domination or control of Standard Oil of New Jersey?

A No, they didn't. Possibly they did not exist at that time as a firm, but similar firms existed.

Q What I want to know is that why, because they found some engineering firms in the petroleum industry were dominated by the Standard Oil Company of New Jersey, that you make the statement in this brief, or ask the questiion, that this firm with which Mr. Knode is connected is also dominated by the Standard Oil Company of New Jersey?

A No, no , that is not the main reason why I say that. It is obvious, on the development, to my knowledge, during the last few months, when the time comes, when the Commission finally deals with conclusions, that is the proper time for me to show the relationship between the different activities of the industry and why conditions exist as they exist to-day.

Q The time, Mr. Plotkins, so far as I am concerned, is for you to say "Yes" or "No", have you any evidence to offer to the Commission, either now or at any other time, evidence to show that the petroleum engineering firm with which Mr. Knode and Dr. Boatright are members, is dominated by the Standard Oil Company of New Jersey, or under their control in any way?

A I have not at this time.

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Q MR. FRAWLEY: Can I ask the same question respecting the engineering firm with which Dr. Boatright is connected?

A No, that firm is in a different relationship. It is common knowledge in the industry in the United States that the firm of Ford, Bacon & Davis is an appendage, that is the proper word, of Standard Oils. Now necessarily one Standard Oil Company but of the group of Standard Oil Companies. In other words they perform certain functions for the groupd of Standard Oil Companies which are necessary, that the Companies, the Standard Oil Companies, operate their business.

Q I do not know what you mean, common knowledge? Have you any proof that the firm of Ford, Bacon & Davis in New York are controlled by the Standard Oil Company of New Jersey?

A I will answer that question definitely in this way1 It is common knowledge, and it was accepted that the British American Oil Company owned the Bell Refinery. Well you investigate and I think you have, at least the Department has, at some time and found that that stock is held by some private individual in Denver. Would that not still apply to this same firm?

Q Is that the answer?

A That is the only answer that I can give you at this time.

Q I will ask you a few questions that may assist us in the problem that we have before us. You purchase oil, crude oil in the Turner Valley from the Sunburst Company?

A Yes.

Q Is that the only place you purchase crude oil?

A In Turner Valley?

Q In Turner Valley?

A No.

Q Well now, from whom else do you purchase crude oil?

A From the Hylo Oils Limited and Publix Petroleums and well there is a number of companies.

Q Indicated in that list?

A Yes, indicated in that list.

Q And how does that oil get to your refinery at Calgary?

A We transport it by trucks.

Q The only use you make of the pipe line then is what you purchase from the Sunburst?

A For this reason, that our contract, when we entered into the contract with the Sunburst Company, we undertook to purchase from them exclusively and we terminated our other arrangements. So that from a certain date we purchased only from the Sunburst Oil Company, and our surplus requirements from the Imperial Oil.

Q The only oil that goes through the pipe line at your direction is the Sunburst Oil?

A That is correct.

Q What proportion of your crude purchases is represented by the Sunburst production? For 1938, say

A In 1938, it will depend on the Conservation Board.

Q In 1938, that is past?

A Oh, 1938, I did not get that question?

Q How much of your crude production do you get from Sunburst and how much from the other miscellaneous wells?

A Well if I can go back to that statement I can give it to you.

Q Is that the one you mean?

A No, we purchased from Sunburst 56,916 barrels. I am going to omit the fractions. We purchased from the Hylo Oils and Publix 39,397 barrels. We purchased - I am talking about Turner Valley only.

Q Yes?

A From The Gas & Oil Products Company, plant naphtha and other products, 11,807 barrels. From the Imperial Oil or Royalite, I do not know who we were dealing with,- the reason I say that is that for some time we were dealing with one and then they switched us backwards and forwards - 19,380 barrels from the Imperial Oil or Royalite.

Q What I am getting at is this, did most of the crude which you used, as distinguished from naphtha, did most of the crude you used in 1938 come through the pipe line or come by truck from these miscellaneous people?

A By truck.

Q Is it more economical for you to get your crude in from Turner Valley by truck or pipe line, under the existing rate?

A In the busy season when our trucks are not available it is more economical to use the pipe line, even though the rates are higher than we might ask for. But for the good part of the year it is much more economical to truck. In other words, it would not pay us to buy an additional truck and put in more tanks.

Q You have had some experience of trucking from Alberta and Montana?

A Yes.

Q And speaking of the refining situation in Alberta,

what is the best way of getting crude oil to the refinery, by pipe line or by truck?

A By pipe line, more economical and better.

Q You now have a pipe line arrangement which I understand is that you pay a 15 cent transportation charge and an additional 6 cents to get it from the Imperial Refineries storage to your refinery?

A That is right.

Q Now we had this from Mr. Moore, but I will ask you about it. What is the operation, if you will very briefly state, the operations from the Sunburst tankage to your refinery?

A Well we deliver the oil, the Sunburst production at the well in tanks. The Royalite officials or men come to the tanks and measure and cause the Sunburst men to pump the oil into the pipe line. When they are through pumping they measure again, and in that way determine how much was put into the pipe line and they give a ticket to the Sunburst Oil Company men to the extent, that is recording the amount of oil that they have taken, and that ticket comes to us so that we know that Sunburst Oil has charged us up with that much oil that went into the Royalite pipe line. We then expect the Royalite to have it available for us in Calgary. Then after it comes to Calgary in the normal operation of the pipe line, our refinery superintendent advises - in fact it is done every day - advises the Royalite or the Imperial Oil officials, because at that time we were informed, at least these are our instructions, we are not dealing with the Royalite any more. We are dealing with the Imperial. So we get in touch with the Imperial

officials and the man that has the operation of that particular work, and we say to him we want so much oil, and he keeps on pumping as we request, except we have to take it whenever that line is available to us, because the same line is used by the British American, through their Bell Refinery. At least it was used, it is not just at the present time. Now, when that oil comes in to our tanks the same procedure takes place as when that oil was taken from the Sunburst tanks. Before the oil goes into our tanks,the Imperial Oil employee seals the outlet - by the way there is only one inlet and one outlet - and when the pipe line operation is completed they measure the oil and give us a ticket and by the way that is measured by both our men and their men. We then receive a ticket charging us with so much oil. We are billed in the regular way through their office at the end of each month. Our bill from the Royalite bills us with the amount of oil that we have received. They credit us with the amount of oil that we have delivered through the Sunburst Company and they charge us for any difference in gravity at the going rate, that is the published rate of crude oil, and they charge us for the pipe line transportation rate of 15 cents and 6 cents a barrel for the other pipe line. If there is more oil delivered by the Imperial than what we have delivered we pay not only the transportation charges but the difference in crude oil at whatever gravity they deliver. If there is oil left, until a month ago they just kept the oil to our credit, but we have succeeded lately to obtain consideration by the Royalite purchasing the surplus,

so that in effect today the balances are cleared each month, either by the Imperial paying us or we paying them, which means that we have eliminated the question of storage. It is the common practice, I might say, in the industry, between refineries.

Q That is clearing the balances monthly?

A Yes, and then the question of storage disappears.

Q One way of looking at the operation is you are simply turning the crude oil into the pipe line and buying crude oil at the refinery at this end,at the Calgary end?

A That is about what it amounts to.

Q You say your people at your refinery demand from time to time a certain amount of oil from the Imperial Refinery?

A Well we have two tanks, one a 1500 barrel tank and a 500 barrel tank that we alternate in use. In other words it is not practical to pump into a tank and also take out. We naturally give them, give the Imperial man a tank to pump into and that operation usually results in alternate days 500 barrels. Sometimes when they are busy we will let them put in 1000 barrels in the big tank. It is a question of convenience again.

Q During the busy refining season in any event you look to the Imperial to keep you supplied with oil?

A That is correct.

Q And the Imperial does keep you supplied with oil?

A Yes.

Q Do they pay very strict regard to how much oil has come out of the Sunburst tank in Turner Valley in making deliveries to you?

A They did at the beginning but after a little while, a

month or so, they did not pay any more attention to that because they billed us with the difference. We made that arrangement.

Q They did bill you for the excess over the Sunburst oil that has been delivered to the Royalite in the Valley?

A That is correct.

Q Now the rate you pay is the rate that everybody else pays, 15 cents?

A Yes.

Q Plus the rate of 6 cents to move it from the Imperial tanks to your refinery tanks?

A That is right.

Q That line is a 2 inch line?

A Yes.

Q What was it originally?

A It was a line that was used originally by the Regal Oil Company. The Regal Oil Company, yes. When the Regal discontinued their refining operations they carried on for some time their marketing operatinns and at that time merely was in control of operations. The Imperial delivered the refined products to the Regal Refining through this same 2 inch line. That is quite a few years ago.

Q It was a line built to connect the old Regal Refinery which is still down there near your refinery?

A Yes.

Q Now closed?

A Yes.

Q It was originally built to connect the old Regal Refinery with the Imperial for the transporting of refined products?

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A Yes. That is correct.

Q Which the Regal at that time was marketing?

A That is right.

Q Then sitting next to the Regal Refinery is the Bell Refinery?

A Yes.

Q Now owned by the British American?

A That is right.

Q How far is it from the Regal to the Bell Refinery?

A At the present time their properties are contiguous. For some considerable time there was a piece of land in between which they have since purchased, so they are now adjoining one another.

Q How much pipe line had to be constructed to extend the line from the Regal to the Bell?

A Not very much, because the pipe line carried along the road allowance. I would estimate 1000 feet.

Q Then your refinery is still further South than the Bell?

A Yes.

Q How much had to be built to connect you with the end of the line at the Bell?

A 1500 feet.

Q When was that built?

A Early last summer. The correspondence will show.

Q In 1938?

A In 1938.

Q By whom or at whose expense was it built?

A It was built at our expense and by ourselves, under the supervision of the Imperial Oil employees.

Q Do you know if the 1000 feet which had to be built to connect the end of . . line at the Regal over to

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the Bell plant was also built by the Bell Company.

A I cannot say that.

Q They charge you 6 cents to transport it through their own lines as far as the Bell plant and through your line to your own tank?

A That is correct.

Q Now if a line were built connecting your tanks with the pipe line, that is the main trunk pipe line before it reaches the Imperial Refinery, what would be the distance?

A If I remember right 1500 feet.

Q And would the amount of work in connection with the opening and closing of the gauges and making deliveries to you be more or less than the amount of work that the Imperial Oil do now to make deliveries to you?

A If you take our operations alone and disregarding the Bell operations - because until now the Bell has been taking more crude in fact and some refined products through this same line than we have, and the man from the Regal, the watchman, which is only a short distance North, has been looking after all the opening and closing and the tickets and all that for the both companies.

Q For both you and the Bell?

A For both us and the Bell. But if the Bell operations discontinue out there now, and they are dismantling part of the plant, then the Imperial will be using this man, this one watchman at the Regal, In addition to his watchman's duties he will be looking after the operations, the pipe line operations which, as far as we are concerned, will be used exclusively in our

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service, apart from his duties as watchman, in opening and closing the gate at the main trunk line, and he will have a little further to go. In other words he will have to walk 1500 feet more to get to that gate and open or close it.

Q Could the same man as far as you know - what the Imperial decides is their own business - but would the same man be able to do the new work rather than the work he is doing now, making delivery from the Regal plant?

A Just the same. I do not see any difference.

Q Do you pay anything for that man's time?

A No.

Q That is all included in the 6 cents?

A Yes, that is all included. That is a normal operation. I may say before the pipe line was put in I myself and Mr. Sweeny, my refinery superintendent, interviewed Mr. McLeod on various occasions and asked him to provide a saddle at the point close to our refinery so as to not cause any extra expense and inconvenience when the time came that they decided to give us direct connection. But that was not done.

Q Now you speak in your memorandum about the refusal of the Royalite Company to transport the oil produced over their allowable, on Page 5?

A Yes.

Q I must confess I did not quite follow that. It seems to have something to do with the Conservation Board. Will you explain what you are referring to in that?

A No at that time there was no Conservation Board, and the Royalite undertook to police the operations of the independent wells in Turner Valley.

[illegible]

Q All right, explain it. I know what you mean now.

A It was our serious objection. At that time they decided the wells on contract to them were to be pro-rated to their market, which is perfectly logical from their own business standpoint. But they also decided that they would force us to pro-rate our wells on the same basis and the same ratio, which we contested their right to do so, because it had effects on competition that were not favourable, that were unfavourable to us. This has to do with the time prior to the coming into effect of the Conservation order.

Q Yes. Now there is one other matter. You now pay 6 cents if your oil is taken into the Imperial Refinery and then transported back to you through this pipe line. If there was a junction made at a point in the trunk line and then directly delivered to your refinery would you pay anything extra or not?

A Not on our volume.

Q You expect to eliminate entirely the 6 cents if you get this line?

A Absolutely.

Q Who would build the line?

A Normally under ordinary pipe line tariffs the Pipe Line Company would build it, but in this case we offered at the time that we made the demand or the request to pay for that line. Normally we should not be called upon to pay for the line, It is part of their business,

Q You paid for the line to link up your refinery with the end of the Regal line?

A That was because there was no regulatory body and if we did not pay we would not get any service, that is all.

Q Before there was any regulatory body, and really there is not any at the moment, you were also prepared to pay for the 1500 foot line to make the direct connection with the trunk line?

A Yes. A high pressure line to fit their requirements, and meet what they wanted.

Q Did you offer to pay any extra expense the Company might be put to in the way of extra gaugers or extra pumping and so on?

A Yes. If you will look at my letter you will see we offered to pay anything that is reasonable either in the building or operation.

Q You were prepared to build the line to make the direct connection and recoup the Company for any additional expense to which they were put?

A I would not say I was prepared to do that. But I offered to do it.

Q What you mean is that by this direct connection, whether any extra charge of any kind is going to be imposed upon you for this extra delivery?

A Yes. We also suggested in our correspondence to the Royalite that it was not customary to make any extra charge and we did not feel we should be called upon to pay any extra charge.

Q You speak about this 6 cents a barrel you will save in 1939, and that is on the supposition that there will be no extra charge, that it will be delivered at your tanks for the 15 cents that you are now paying or what-

ever rate is fixed?

A That is right.

Q MR. COMMISSIONER LIPSETT: In other words you would be put on a complete equality in getting the oil delivered to your refinery at the same price as it is delivered to the Imperial Refinery at the present time?

A That is correct, sir.

Q MR. FRAWLEY: Do you know whether there are any refineries between Turner Valley and the Calgary plant of the Imperial that might in the ordinary course be applying for or requesting, , direct connections with this trunk line, such as you have requested?

A I do not know of any.

Q There is a small plant at Okotoks. Do you know anything about that plant?

A I know something about it. It is quite a distance.....

Q From the pipe line?

A From the pipe line, and then the operations are very very small. In fact at the present time it is closed down.

Q They have always got whatever requirements they have had by truck I presume?

A That is correct.

Q You make some point about the Imperial Oil Refinery at the bottom of Page 5 and the top of Page 6 of your memorandum, the Imperial Oil Refinery gets the use of the Calgary Gas Company's pipe line from Turner Valley to Calgary, and that the refinery is supplied with all its requirements of natural gas at a flat nominal charge for transportation only, and no doubt the B.A. Refinery will get the same privileges. That last reference

is what you think might be the arrangement which the British American will make with the Calgary Gas Company at their new refinery?

A That is correct.

Q You now state that the fact is that the Imperial Refinery gets the use of the Calgary Gas Company's pipe line from Turner Valley to Calgary. Does that pipe line run into - the Calgary Gas Company pipe line does not run into the Imperial Oil Refinery?

A A branch of it runs in order to supply the Imperial Oil Refinery gas requirements.

Q What you say is the Imperial Oil Company refinery operates on gas which they obtain from the Calgary Gas Company?

A Which they obtain from the Calgary Gas Company pipe line.

Q Yes?

A But it is gas that they have put in the pipe line in Turner Valley, and for which the Gas Company is not called upon to account except to deliver.

Q Oh you mean this is the Royalite Oil Company's product, gas?

A Yes.

Q Which they transport to their East Calgary Refinery through the Calgary Gas Company's pipe line?

A Yes.

Q Whether they pay or not for it - you suggest they do not pay for it?

A I suggest they pay a nominal amount to the Gas Company for transportation.

Q I suppose you do not know just what the arrangement is?

A Well I would like to find out.

Q I know, but you do not know?

A No, I am not absolutely positive, but I do know that the Gas Company, when I went to them and asked them to lay a line to my refinery that they imposed conditions that were prohibitive and I could not go ahead.

Q You make the statement here, or if it is not a statement it is a very strong suggestion, that the Royalite Company or the Imperial Oil Company only pays a flat nominal charge for transportation only?

A To the Gas Company, that is correct. I know that.

Q How do you know that?

A Well that is my information. Just the same as I know anything else. I have found out. I have gone and investigated.

Q Well, all right. Have you ever endeavoured to purchase crude oil at the Imperial Oil Refinery in East Calgary any other way than through this 2 inch line running to your refinery?

A Any other way?

Q Have you tried to purchase it in truck load quantities, tank truck quantities, crude oil?

A Yes, we did transport for some time crude that was delivered from the pipe line into the Calgary Refinery by truck from the refinery in East Calgary to our refinery.

Q Before you had the Regal line extended to your plant you brought it by truck from the Imperial Oil Refinery to your plant at Calgary?

A Yes.

Q For how long did this arrangement continue?

A I suppose for several months.

Q Did you take away quite a lot of it?

A Yes.

Q How many trucks did you have to use?

A We had one big truck all the time. Well all the time between their hours. They would not load only between certain hours. I would estimate that we would use 250 to 300 barrels a day at that time.

Q What sized tank truck was it?

A It was a 2000 gallon truck. Tank truck.

Q About a sixty barrel truck?

A Yes.

Q You had this truck going back and forth all day?

A Yes.

Q I have some reason for asking you these questions. What facilities were there in the East Calgary yard for making delivery to that truck?

A They had a loading line.

Q They had a loading line?

A Yes.

Q Connected with.....

A I was not there so I am not in a position to say definitely how it was connected.

Q You never yourself supervised that operation of loading into your truck?

A No! I had a transport manager that did that, and he went down and made the arrangements and saw everything was right, so that we could carry on our operations efficiently.

Q What extra charge was made during that period to let you take delivery by tank truck?

A The Royalite pipe line, if I remember, did not make any charge for putting it into our truck tanks. It cost us

9 cents to transport it from the refinery to our refinery.

Q It cost you 9 cents a barrel?

A A barrel more.

Q This is the operation you are speaking of, by your tank truck?

A Yes.

Q From the Imperial Refinery to your refinery?

A Yes.

Q That cost you 9 cents a barrel?

A Yes.

Q For that two miles?

A Well it is five miles going by road.

Q Do you say the Royalite did not make any extra charge? You paid the pipe line rate?

A 15 cents. I do not believe there was any loading charge.

Q That would not be made by the Royalite in any event would it?

A That would be made by the Imperial.

Q But you do not think there was any loading charge made?

A No.

Q Now the Imperial charges you 6 cents to take it to your refinery?

A That is correct.

Q That is a charge which is paid to the Imperial?

A No, we were informed - this is really a legal fiction,- but I went to Mr. McLeod and he said the operation of the Royalite finishes here, and from them on it is Imperial. But we notice that the bills all come from the Royalite and the Royalite is the one that bills us for everything.

Q Right today, so I will understand, right today, to whom have you to pay the 15¢ plus the 6 cents, the 21 cents?

A To Royalite.

Q You pay the whole 21 cents to the Royalite Company?

A Yes, and for the surplus we also pay that to the Royalite.

Q So that you pay the Royalite for that 6 cents charged for transporting your oil from the Imperial Oil Refinery to your Refinery?

A Yes. It may be done for the purposes of convenient bookkeeping.

Q Did you ever pay that charge to the Imperial?

A I think for some time we did. I am not positive. I believe for a short time we were billed separately.

Q There has been filed by Mr. Nolan Exhibit "98", what may be called a proposed set of regulations governing the operation of the pipe line. I have not given it a great deal of thought yet. This witness, Mr. Chairman, is only one, or is one of only three people using the pipe line, and I am asking Mr. Patterson perhaps to examine that exhibit and see if he has anything to say about these proposals. Not just now, but later.

A I want to say that there are more than three of us using that pipe line. That has been the impression given, but actually the Anglo-Canadian has been using the pipe line to quite a considerable extent, in delivering crude, or in shipping crude from Turner Valley to Calgary, and then shipping it to their Brandon Refinery.

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MR. PATTERSON: I may say in regard to certain observations which your Lordship made as to certain questions in this brief, I have no quarrel with your Lordship's statement in that regard. I am in the same position as Mr. Frawley in that respect. I want to ask this witness one or two questions.

Q Mr. Plotkins, you say that policies and prices and matters of that kind are controlled in New York or some place outside the Province?

A Yes sir.

Q Have you any personal knowledge of that?

A Yes, I have. When it comes to getting prices, or even purchasing products from the local offices of the Imperial Oil, my demands or my requests for prices or for purchasing invariably I am informed "go to Toronto"

Q Can you be more specific about that?

A Yes. It has been brought home to me, indirectly through my American connections, that when a request for a product or a price goes to Toronto, that request is passed on - I will show afterwards what I mean by that - to New York, and then New York advises Toronto and Toronto advises the local office, and I am told several weeks afterwards that they can do this or they cannot do that. The reason I say the policy is set in New York, I have a personal experience to relate that will prove that point. Approximately fifteen months ago when it was certain that Turner Valley crude existed in sufficient quantities that it was going to affect the prices and competitive conditions in Alberta, and it was going to force a

realignment of prices and policies to confirm with the new situation created by local production, I foresaw that condition and I made application to the Imperial Oil for a price and the privilege of buying products in the form of standard gasoline and Ethyl gasoline. I made that application to the local manager. To the Alberta manager of the Imperial Oil.

Q Who was that?

A Mr. Stevens. He is now in Edmonton. He was then in Calgary. He passed on my application to Toronto.

Q How do you know that?

A Well he told me so.

Q I see.

A And for some weeks no reply. I asked him for a reasonably prompt reply. After several weeks I wrote again to the local office and asked them to give me reply and a decision, and about three or four months I kept writing and asking for a decision. In the meantime the situation that had developed in Alberta on these two grades of gasoline was this, until then the price set by the Imperial Oil for standard gasoline and ethyl gasoline in Alberta, or in Calgary, was sufficiently high so that we could go down to any refinery in Montana that was capable and was willing to sell us standard or ethyl grade gasoline, pay the going competitive price and bring it up to Calgary and compete, making a small reasonable profit. Now when the Turner Valley situation asserted itself in terms of marketing, that spread disappeared. The price here of standard gasoline and ethyl gasoline went down. The price in Montana stood still, and wiped out the margin then that we had had

previously. That was a condition that was created whereby we would be naturally forced out of that particular market, which is the main market for refined products. When I saw that there was no chance of getting any satisfaction from the Imperial Oil I made application to the British American, with practically the same results, only I was referred back to the Imperial. I had also approached the New York offices of the Texas Company and painted a picture to them of the local situation that would make it or that would cause them to favourably consider supplying the independents in this Province and in Saskatchewan with the cracked products that would be necessary to compete under the new condition. Mr. Meltabarger, the local manager, in fact he is the manager of the Texas Company of Canada Limited, and he is in charge of the Canadian operations, was in New York and discussed that matter with his Vice-president, Mr. Dodge, and with the Standard Oil officials in New York.

Q How do you know that?

A Mr. Meltabarger gave me an account of steps that were necessary in order for his company and himself to have permission to sell us gasoline. His Vice-president and himself interviewed the Standard Oil officials concerned in New York and and had a few interviews. There was the position that the Standard Oil took, according to Mr. Meltabarger, which was later reflected in the Toronto offices, and was that they did not see why they should help the independents remain in business, and it was their intention not to supply them with products and it would automatically wipe

out that competition. Mr. Meltabarger informed me after the interviews of his Company with the Standard Oil officials in New York, that Mr. Dodge and himself took a trip to Toronto and interviewed the Imperial Oil officials.

Q Who was Mr. Dodge?

A Mr. Dodge, I understand, is Vice-president and in charge of marketing of the Texas Company, and it was there in Toronto that they endeavoured to convince the Imperial Oil that it was a short-sighted policy to adopt, and in order not to create any friction between the two companies they were endeavouring to make arrangements whereby they would supply us, without creating too much friction between the Companies. The final result was that the Texas Company agreed and did supply us, not only myself but several independents, in fact all the independents in Alberta and Saskatchewan - with one exception, that was under contract to the British American, - with the product at a price that permitted a sufficient spread to market and make a small profit., Now that is only one experience. In the course of my 19 years of experience I have had similar occasions occur in connection with my connection with the Maple Leaf Petroleums at Coutts, which was purchased by the Standard Oil of New Jersey direct.

(At this stage the Hearing was adjourned until 2 P.M.)

....

LEON L. PLOTKINS, having been recalled examined by Mr. Patterson, said:

Q Mr. Plotkins, before the noon adjournment you were giving reasons which you believe from your personal knowledge to show that prices in matter of quality in the oil industry were not settled in Alberta.

Q THE CHAIRMAN: Nor in Canada.

A Nor in Canada, that is correct.

Q MR. PATTERSON: Now the Royalite is a subsidiary---

THE CHAIRMAN: It has been quite openly admitted, Mr. Patterson, that the Royalite is a subsidiary of the Imperial Oil.

MR. PATTERSON: I didn't know that.

THE CHAIRMAN: And that the Imperial, as my associate points out, that the Imperial is a subsidiary of the Standard Oil Company.

MR. PATTERSON: Very well my Lord.

Q MR. PATTERSON: Now you told of your experience in connection with one application you made to purchase oil?

A Yes.

Q Were the circumstances in connection with that application out of the usual in any way?

A No, that is the usual way on any competitive situation, it is the usual way of handling in competitive situations by Standard Oil?

Q Yes. Now pe_haps I might summarize what I understand to be your submissions, your general submission and if I do not state them correctly you might correct me, your submission is that price fixing will not be satisfactory?

A Price fixing by any government authortiy.

Q Government authority or commission?

A That is correct.

Q For what reason?

A Because as I explain in my brief the matters are too complex and in the main are outside of the practice that effect prices, are outside of the control of any Alberta body.

Q That is there might be a new oil field in Montana or Saskatchewan or elsewhere?

A Or the Standard Oil may decide to use some other oil, that is may use some oil in Saskatchewan and close down this field.

Q And in addition you say conditions change so rapidly that prices fixed at one time are not applicable to a later date?

A That is a fact. Too many factors that effect prices for one government body, that is an Alberta government body to effectively control them.

Q Then as I understand your submission is this, the situation take care of itself under a system of free competition?

A That is right.

Q And you go on to submit that at the present time competition is not free, is that correct?

A That is correct.

Q For what reason?

A Well because someone is able to fix prices.

Q That is you suggest that somebody fixes the prices of crude oil?

A Yes.

Q Somebody else fixes the price at which the refined products are sold?

A Yes and moved into the market.

Q And the independent has to operate within those limits?

A That is correct, that is exactly my submission.

Q And that there is much regulation of the industry in other respects?

A Much regulation by whom?

Q By somebody?

A Yes, that is correct. In fact everything is regulated, nothing is left to chance.

Now you have had time I think during the noon adjournment to look at that Royalite proposal?

A Yes.

MR. FRAWLEY: Exhibit "98".

Q MR. PATTERSON: Yes, I have not seen it before. Now have you any brief comments to make on the terms of that proposal?

A Yes I have.

Q What are they?

A I will make them just as comments, I have not had time to make a written submission but I will do the best I can verbally. No. 1 and No. 2, I have no comments to make.

MR. NOLAN: I am afraid this is going to be a little difficult for the Commissioners because this has never really been placed before them, Mr. Plotkins. It will have to be. Perhaps this discussion could be left over until it has been brought formally before them. All we had, as you remembered---

MR. FRAWLEY: I think you are quite right.

MR. NOLAN: Was to mark it. We did nothing more than that.

MAJOR LIPSETT: Are these the regulations.

MR. NOLAN: Yes.

MR. PATTERSON: That is all right for me, I have no knowledge as to what has happened.

MR. FRAWLEY: Yes, this witness may be saying that he is one of the people who should now use the line. Perhaps it is right for him to have his comments on it and that can be done at a later date.

MAJOR LIPSETT: And he has only seen it now?

MR. PATTERSON: Yes.

Q MR. PATTERSON: Then have you anything further to add?

A Yes I have; one observation to make in presenting my brief this morning, the last page of the first part, I inserted after, that I inserted myself, and Mr. Patterson my solicitor did not see it and I want to say at this stage that those expressions are my own, that I made in there, and that Mr. Patterson was not aware I was going to make this particular statement. I say this because I realize that some of the statements are quite strong and I made them on my own responsibility.

Q THE CHAIRMAN: And the same applies to the questions on page 13?

A Yes, to the questions, in fact all the questions.

MR. PATTERSON: I may say, my Lord, I did not ask Mr. Plotkins to make this statement. He volunteered himself to do it.

Q MR. FRAWLEY: I thought I had concluded my questioning, Mr. Plotkins, but there is a paragraph on Page 6 of your pipeline memorandum which perhaps touches on some of the things the Commission is asked to inquire into, but

I did not understand it any too well and would like you to elaborate upon it, it is on page 6 and it reads this way, the last two paragraphs on page 6.

"In considering the matter of pipeline rates and regulations, it should be borne in mind that the Royalite Pipeline is primarily engaged in transporting the crude requirements of Imperial and it is not unnatural to expect that Imperial Oil Limited will use the pipeline to secure additional revenue and wherever possible to hamper, harass and control the operations of competitors".

Now I only read that paragraph because it leads into the next one;

"In Turner Valley this is expressed by setting market allowables in co-operation with B. A. Oil Company that effectively regulates the income of contracted independent wells and, where monies have been advanced, prepare the way for their acquisition or control on their own terms so that their production does not become available to independent refiners."

And the next paragraph;

"The Royalite, by various methods at their disposal in combination with Imperial who make it their business to control directly or indirectly the markets for refined products and indirectly the major part of the crude, in order to have the undisputed power to set the field price can actually produce and acquire crude oil at unbelievably low cost prices".

Now Mr. Plotkins, one of the matters of inquiry which this Commission is directed to make is whether existing ownership or operation of the pipeline and pipeline facilities results

in or tends towards an unwarranted control of the price of crude petroleum or its deravitive. Now would you mind very briefly stating what your views are, which you have endeavoured to set out in these few paragraphs?

A Well I am going to have to take a hypothetical situation because there is a problem, the Imperial or the Standard Oil of New Jersey is faced with a problem, in order to set the price, now these problems are not imaginary, they are actual; in order to be able to set a competitive price for crude oil for Turner Valley Crude someone, in this case the Imperial, must of necessity be in a position to impose that price. I suppose that is obvious. Why, because if the Imperial says crude is worth $1.20 and I am able to make deals and others are able to make deals below that price, well it is not very long until the Imperial must face that situation and reduce its price accordingly, so it is obvious that if there is anyone else does that, in other words if there is anyone else interferes with that price they must have control of sufficient production to impose that price on the trade and their competitors. Now the problem then that the Imperial is faced with, that they must control a majority of the crude that moves to market in Turner Valley in order to effectively maintain that particular crude oil pipeline price and it expresses itself in Turner Valley by taking no chance, it is normal, I am not saying it is wrong, it is business, that no one else will acquire sufficient crude oil production directly or indirectly and they accomplish that by being right on the spot with money, with other means, whatever means there are available, to see that the crude finds its way either by direct ownership or through control under contract into their hands. It is very simple, I mean it is not a very hard bus-

[illegible] unwarranted [illegible] of the price of [illegible] petroleum or its derivatives. Now would you state very briefly stating what [illegible] are, which you have [illegible] [illegible] to [illegible] these for your replies

[illegible] hypothetical situation [illegible] where [illegible] the Imperial or [illegible] Standard Oil [illegible] price [illegible] they are [illegible] actually [illegible] under [illegible] [illegible] [illegible] in this case of [illegible] of necessity [illegible] to [illegible] [illegible] I suppose that [illegible] [illegible] because if the [illegible] and I [illegible] to make [illegible] that price, [illegible] it is not very [illegible] [illegible] and [illegible] [illegible] that [illegible] [illegible] that is [illegible] with [illegible] price they [illegible] lose that price [illegible] the problem [illegible] they must [illegible] [illegible] [illegible] that [illegible] [illegible] [illegible] [illegible] it is [illegible] very [illegible]

iness proposition. The only trouble is I cannot do it.

Q Now, Mr. Plotkins, if the Imperial control 51% of the crude and you control 45% of the crude, would they be able to impose their price?

A No, they couldn't?

Q Why?

A Because if I control 45% of the crude and was not willing to come to an agreement with them after that price I would set my own price and 45% of that crude moving into the market at any other price would mean that there was an open market and then the producer would get whatever he could sell it for to me or to the other man.

Q What I am interested in having you comment upon is the suggestion that by virtue of the control of the majority of the crude?

A Yes.

Q Either through production or contract, they could control the market?

A Control the price of crude.

Q They can control the price of crude?

A Yes, set the price on crude, not necessarily control it.

Q Set the price of crude by the mere fact that they control the major number of barrels produced?

A In other words---

Q Is that what you mean?

A Yes.

Q Because they control the most production, either their own or by contract?

A Or by agreement with someone else.

Q Or by agreement with someone else?

A Yes.

Q Namely whom?

A Namely in this case the British American.

Q Who have the next largest share in the production?

A That is correct.

Q And you say that those two companies can and do make the price of crude?

A Yes, I say the Imperial does now, why, because the Imperial Oil actually sets the price.

Q Is it not controlled, or do you understand it to be controlled by the nearest, the price in the nearest crude field which in this case is Montana?

A No, the price at Turner Valley has no relation to the price of Montana as a competitor in supplying crude oil; in other words you cannot effectively import Montana crude oil and lay it down in Calgary in competition with Turner Valley at the present price.

Q You say the price of Turner Valley crude is fixed without any regard to the price of crude in Montana at the present time?

A I would not say without any regard, but I say the price of Turner Valley at the present time is such that Montana crude cannot compete with it and it is perfectly logical. In the United States only a few years ago prices were related, one field or market to the other.

Q Yes?

A In this way . t the Mid-continent were the competitors. Now each field where the crude had to move to market, the price was low enough to take care of the transportation and bring it to a parity with Mid-continent but in the last few years a change in the competitive situation has occurred and each field serves its local markets and stands on its own feet

so that we have today a condition that 32 or 33 gravity crude in Mid-continent is practically the same as 32 or 33 gravity crude anywhere else in the United States, where a few years ago the Mid-continent 32 or 33 gravity crude was worth $2.50, ain the Mid-continent field, while in other States it was down as low as .50¢, so in Alberta today the price of Turner Valley crude has no direct relation with Montana crude for that reason.

Q Now, Mr. Plotkins---

A It has a market of its own.

Q Until some time in 1936 all the crude oil in this Province came from Montana?

A Yes.

Q Then Turner Valley crude was discovered and we spoke of the Turner Valley crude displacing the Montana crude at the East Calgary Refinery?

A Yes.

Q What did that mean?

A Well that meant that it was then possible to produce crude in Turner Valley cheaper than it could be purchased in Montana and imported and shipped into this market.

Q So that the price was fixed in Calgary at a mark to shut out the Montana crude?

A Well it had that effect. The price at the present time does that very thing. I do not know if it was fixed for that purpose.

Q Then the price---

A At least that was only one of the factors which influenced that particulzr price.

Q Yes, the price in Calgary and Turner Valley then today is sufficient to keep out Montana crude?

A That is correct.

Q Then how can you say that it is not fixed with relation to the price of Montana crude?

A Yes, but they can fix it at a dollar or eighty cents, just as well as they can fix it at $1.20.

Q THE CHAIRMAN: How much under the competitive price has it been fixed?

Q MR. FRAWLEY: Yes, you say it is lower than sufficient to shut out Montana crude?

A That is what I want to say. To answer the Chairman's remark it is approximately 30¢ below.

Q About 30¢ under?

A Yes.

Q You know it is also fixed, the price in Turner Valley is also fixed having regard to what is to go to Regina to replace Montana crude at Regina?

A Yes, I realize that.

Q THE CHAIRMAN: 30¢, Mr. Plotkins, under the price that Montana crude can be laid down here?

A Having regard to the competitive value of the crude.

Q Yes.

A Mr. Chairman, you want to realize this, that there is no big market available to any independent in Montana and in Western Canada because the market is mainly in the hands of the Imperial Oil and British American, and the British American and Imperial have the production in Turner Valley, even although the other crude might be available at considerable less price to the independents than they fix at Turner Valley, it still would not move into Western Canada.

Q Why?

A Because the British American and the Imperial have the marketing facilities and the refining facilities and no one would be rash enough to spend money for a temporary situation, that is, no owner of crude in Montana would consider it good business to come up here and build refining and marketing facilities in order to push his crude on the Western market when the facilities are already existing and are in other hands.

Q Mr. Plotkins, have you some knowledge of the Montana crude situation?

A Yes.

Q Have you been down there intimately and in touch with it lately?

A Yes I have.

Q Do you feel able to answer me this question, if the Imperial oil for any reason went down into Montana today to find a sizeable supply of crude oil for its Canadian operations, say, something like 3000 barrels a day, what would they have to pay for it?

A They would have to pay the pipeline price that is set by the companies controlling the carriage of the crude oil in each field, in the field, the Cutbank Field or in the Kevin - Sunburst Field which is at the present time 90¢, for the Kevin- Sunburst crude and $1.10 for Cutbank crude

Q All right.

A I do not know if it would be available but if it was that is what they would have to pay for it.

Q Now when you say you do not know if it would be available, what do you mean by that?

A Well since the Americans in Montana, the American producers in Montana have lost the Canadian market they have gone to work

and endeavoured to get established other outlets and gradually have taken up the slack and the amount which is available is going to other markets and every day that amount becomes less and less available to anyone to go in and buy it. It is under contract.

Q Having in mind all the conditions which are there, the fact you say they have gone out to replace the lost market with some American outlets?

A Yes.

Q Having all those factors in view, could the Imperial buy 3000 barrels per day of Cutbank crude at $1.00 a barrel?

A At $1.00 a barrel?

Q Yes.

A Oh I think with a little work they could.

Q Could they buy that amount of crude at 90¢ a barrel?

A That depends again how much work and how much money they are willing to spend.

Q How would the money be spent, I am just regarding them as the purchaser of crude?

A The purchaser of crude is in the same condition as the Imperial is in Turner Valley, it gets production by advancing money and in that way it can get its supply.

Q Could the Imperial Oil buy up to 3000 barrels a day at 80¢ a barrel?

A I would not say, I do not know but it is reasonable for me to assume if the Imperial were willing to create or to bind themselves to get, to sign a contract with a number of producers so that those producers could safely go ahead and drill more wells---

Q Yes.

A And market the output over a reasonable period of time, I have no doubt that in the cost of producing crude in Cutbank, that the Imperial could buy crude in Cutbank for 90¢, I would not say lower than that.

Q But I understand though it would mean a development program in the Cutbank field?

A Absolutely, the same as the British American did when they went down there.

Q That is not what I am concerned with; could they go down now and buy such crude at 80¢?

A No, they couldn't.

Q Not in your opinion?

A No and it is not only my opinion but I have tried it and other companies have tried to and they cannot.

Q You feel pretty certain of your position when you say that they cannot?

A Yes, because I have tried.

MR. FRAWLEY: I think that is all.

Q THE CHAIRMAN: Do you suggest there is any connection between the British American and the Imperial or Royalite other than by private treaty, any control, are you suggesting--

A No, I do not believe---

Q That the B. A. is under the control of Standard Oil?

A Oh yes, that is a different question, than no connection with the Imperial. When it comes to answering a question of that type it must be considered in the light of the B. A.'s operations all over Canada and there is no doubt in my mind that at various times they come together and agree on the attidue to take or the policy to follow in respect to any given market or competitive situation throughout the length

and breadth of Alberta, of Alberta and Canada.

Q MR. NOLAN: Mr. Plotkins, I would like to ask you one or two questions if I may, please, you are opposed to governmental price fixing?

A Yes.

Q You are in the producing, refining and marketing ends of this business are you not?

A Yes.

Q And you do not think that the government should interfere and fix the price for that?

A That is correct.

Q You do think they should interefere and fix the pipeline price?

A Yes.

Q You are not in the pipeline business, are you?

A No.

Q What is the difference, Mr. Plotkins?

A The pipeline is given a franchise, it is a creation, I mean it has rights of building a pipeline, going through lands, performing certain services, are derived from the Alberta Government.

Q Yes, and your right---

A And it has privileges that I may not be able to get. In fact the history, past experience tells me that there is not very much doubt in my mind that if I went, assuming I had the money and the crude oil to transport---

Q Yes.

A To the Provincial Government and asked them to give me a charter that they would seriously investigate the facts whether it was justified.

Q And your financial position?

A Well I am forgetting, assuming that I had the money and I had everything.

Q Yes.

A But yet it may not be good public policy to duplicate a facility because it serves, it is in the position where it serves a multitude or a number of companies.

Q You who refine, Mr. Plotkins, enjoy a license from the Provincial Government?

A No.

Q Is there not some form of license issued for your refinery?

A No, from the Dominion Government.

Q You make application for it?

A Yes.

Q Under what Act is that?

A It is a petroleum Act, I do not recall it, it is a Dominion Act.

Q What is the name of it?

MR. FRAWLEY: I am not sure.

Q MR. NOLAN: It is a Dominion Government Statute anyway under which you are licensed?

A Yes.

Q You said a moment ago about the price of crude being set, you will agree with me that the price of crude is not set by the cost of production?

A That is right.

Q It is set by competition with other crudes from other fields?

A It is set by a weighted number of factors.

Q One of which---

A But finally it would amount to all the factors which would

affect competition and that is the price.

Q And one of them is the competition from the crude?

A One of them is the competition from other crude---

Q Crude from other fields?

A Yes.

Q There is no posted field price in Montana?

A Well that is not quite correct.

Q Well is there or is there not?

A Yes, there is a price at which, in the Kevin - Sunburst field, the Texas Company says it will buy crude and it is the largest purchaser and the Big West Refining Company also pays a price which by the way is 10¢ lower than the Texas Company sets.

Q So the Texas Company's price is how much?

A Is 90¢.

Q What is the other price?

A That is 80¢.

Q And that is set by what?

A By the Big West Refining Company.

Q So we have in the Kevin field two prices?

A Yes.

Q Well that is curious is it not?

A No, not if you know the facts.

Q I thought the posted field price was a price for the field, Mr. Plotkins?

A Not necessarily. We have a good many instances in the United States where even large companies have different prices.

Q Am I right in saying that there is not one single posted field price in Montana?

A No, the Kevin Sunburst field there are two.

Q In the Cutbank, that is only one?

A So far as I know.

Q Who posted that?

A That price is posted by the Texas Company also, the International Refining Company to be exact, which is the refining subsidiary of the Texas Company.

Q All right. Now I notice in your remarks to Mr. Frawley this morning---

THE CHAIRMAN: Mr. Nolan, I wonder if you care to pursue the suggestion, you are speaking about the cost, the price not having to do with the cost of production but in a measure at least it is fixed by competition.

MR. NOLAN: Yes.

THE CHAIRMAN: You will remember the witness approves of all competitive features but throws out a question that this is not unrestricted competition.

MR. NOLAN:- Well by competition in that sense I mean, Mr. Plotkins, competition as between our Turner Valley field and other fields, you agree that that is a competition that does influence our local price?

A No, I do not.

Q Well it is one of the factors?

A It is one of the factors but why I say I do not, if you will permit me to say this, that if there were a number of independents buying Turner Valley crude today the price would go up to as close as possible to the competitive price between Turner Valley crude and Keven Sunburst, in other words, there would be 30¢ margin, which would fluctuate back and forth.

Q In other words you say there are not enough independents producing crude oil to have their effect on the price?

A That is right.

Q But if we had more and more independents purchasing crude, until they arrived at the position of being purchasers in the quantity that the Imperial Oil and the B. A. now are in, then they would be the people who would have something to do with setting the price, is that it?

A No, it does not necessarily have to be in big quantities. 10% of the market of the crude production under a given situation will disturb the ability of the major companies from maintaining its price.

Q Then the price of crude goes down?

A Either down or up, not necessarily down, if I pay a premium?

Q Yes.

A The price goes up. If I am able to buy at less and increase the market, at the present time the producers are complaining there is not enough market to absorb their production and if I can go out into Saskatchewan and Manitoba and am able to displace some other crude and I go to an independent producer and I say to him "Well now here I have the market for 2000 barrels of crude but the freight rate and the conditions are such that you will have to accept $1.10." Now if he is willing to accept $1.10 for 2000 barrels of crude and I establish the connection and that crude moves regularly to the market and providing no one else can interfere with the market at the other end, in other words there is no price cutting in the refined product, to prevent that condition from continuing, the shipment of crude, now very soon 2000 barrels moving at $1.10 will have to be considered by the people that have set

the price of $1.20 because if they do not consider it the refiner in Saskatchewan or Manitoba will then be in a position on the face of it to produce gasoline, the finished product, at a less cost and will then become a competitive factor in the refined product.

Q Yes, then is it your point that there is not enough competition with the big companies?

A There is no competition amongst the big companies.

Q There is no competition against the competitive companies?

A There is none, no effective competition.

Q Is that the point of your argument today?

A That is correct, yes.

Q What would you do to remedy that?

A Well of course, let us find out what it costs to produce something, find out why those costs do not operate on their own, on themselves to create a competitive situation.

Q But your point is that there are not enough of the independent producers supplying the crude, supplying the crude market.

A That is one of the situations.

Q What would you do to remedy that?

A What would I do to remedy that?

Q Yes.

A Prevent the situations arising, as they have arisen in the past where one major company says "there is the price and there is the amount that we will buy".

Q Yes.

A And going around and purchasing the available lands that are open for development in the main, contracting the available

p production, that is available for marketing in the main, and

you have a situation where there is no oil available and in the main no lands available for development.

(Go to Number 3255)

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Q In a word, you would cut down the competition from the major companies?

A In a word, oh no, I would not cut down competition. There is a difference between competing in an open market and doing what the brokers do when they want to make a stock go up or go down. That is about the situation, sell or buy and throw the weight of their purchases or their sales and influence the market.

Q Is it not your point that the major companies have too many wells under contract?

A No, I would not say that.

Q Is it not because of that you say they are able to exercise this control in the market?

THE CHAIRMAN: Under contract and privately owned.

Q MR. NOLAN: Yes, and privately owned?

A Yes. Well, I would say because of that situation at the present time and because of the further fact that as one well starts to drill they are right there to see no one else grabs it.

Q And what would you do about that? Would you stop it, Mr. Plotkins?

A Now, wait one minute. It is too involved to answer just simply. Just as long as the Imperial or any other company, major company, controls the major part of the refined products market it will have that effect and also control the purchase of the crude because no one else has any available market for that crude.

Q And what would you do to remedy it?

A I think my suggestions in my brief as to how to remedy it will show. It is there, all the relevant facts. I would

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say if there was a huge or a wide discrepancy between the actual cost of producing a gallon of gasoline and selling it, if I am right in my contention that it costs 4¢ a gallon to produce and refine a gallon of gasoline and we find a situation where it sells for 15½¢, forgetting about the taxes, then I would want an explanation of how these companies are able to perpetuate such a system and prevent anyone else from interfering in it. Whereas the natural run would be if you know a man is doing such a thing somebody should be able to get in there and make a lot of money or cut the price and reduce that spread.

Q If their profits are too great is there not an opportunity for the independent to come in?

A There is, normally, but, you see, Mr. Nolan, if the Imperial sets the price at the field, the pipeline price, they set my cost, not their cost but my cost.

Q That is, you are saying the Imperial sets the price for the Turner Valley product?

A The Turner Valley crude.

Q Is that so?

A The facts are the Imperial posts the price.

Q You know enough about this situation to know that the price is fixed for the Imperial by competition and other factors?

A Well, by a multitude of factors, not necessarily one factor.

Q Well, let us call it the Imperial price, if you like?

A Yes.

Q They fix that price?

A Yes.

Q And that prevents you from getting into the crude market, does it?

A

A No, it does not. It does not prevent me getting into the crude market. The Imperial will sell me all the crude I want at $1.20. But it prevents me effectively getting into the production end in Turner Valley and producing crude for 75¢.

Q If you had the resources you could get into that production end?

A Yes. If I had big enough resources I would not have any problem. They would compromise with me and let me in at a price that would be competitive.

Q Are you complaining because they have the money to do this?

A No.

Q What are you complaining about?

A I am not complaining because they have the money to do it. I am complaining because they take steps that to my mind are absolutely illegal to create conditions in Turner Valley that bring about this situation.

Q What is the illegal step they take?

A Well, I will go back.

Q Go back as far as you like, where do they start to become illegal?

A Start at the beginning of the history of Turner Valley because that is the only way to bring out that here. Turner Valley first produced through a number of wells naphtha, separator naphtha. That was before there was any absorption plant, producing plant naphtha. Now, separator naphtha......

THE CHAIRMAN: Excuse me, Mr. Plotkins. I suppose we are not getting along with that glossary.

MR. FRAWLEY: Yes, we are.

A I have a glossary, a printed glossary with all the terms of

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the oil business, put out by a big firm in the United States. It might be convenient.

MR. NOLAN: I am glad. We shall be glad to have it.

THE CHAIRMAN: The witness says that he will make available to you, Mr. Frawley, as a starting point at least, a digest of the terms and definitions as used in the United States.

MR. FRAWLEY: The fact is we are working at this but while we were on this accounting stuff we had let it go from day to day. I did not think we would get back into these words again until we got away from the accounting. This was an interruption which I did not forsee.

THE CHAIRMAN: It might be well to look at what Mr. Plotkins has and which he is willing to make available to you.

A It is a printed book with about 50 pages and gives a glossary of the terms in the oil industry.

MR. FRAWLEY: You started to use a plant naphtha, and we have had several others, perhaps, dealing with the same product, plant product and absorption gasoline ?

A The same thing, but in the trade we consider it or call it plant naphtha and separator naphtha.

MR. FRAWLEY: Are these the terms used in Turner Valley also?

A I cannot say. I did not look at it from that standpoint. It is a late book. I got it a few months ago.

THE CHAIRMAN: It might be helpful.

MR. FRAWLEY: I would like to get that if you would send it to my offce I would be very much obliged.

Q MR. NOLAN: Now, to come back. You began

with the operations in Turner Valley?

A The main product was separator naphtha. The Royalite 4 came in with a lot of gas and a lot of separator naphtha and all the wells produced separator naphtha, of varying gravities and colors.

Q In 1924. The Royalite gave impetus to the activity in the Valley at that time?

A Yes.

Q And it was drilled with Royalite money, wasn't it?

A I would not say as to that. The Royalite shows, outside of loans of money, there was only a few thousand dollars put in g by the Royalite as cash. The rest was really printed certificates.

Q In what?

A In the purchasing of these other properties.

Q You talked about that the other day. Pieces of paper that the Royalite Oil Company gave to these other companies to purchase interests in their wells?

A Certificates, I would call them, which represented value.

Q They have a value, haven't they?

A Yes, a public value.

Q They gave something for the interests that they acquired, didn't they?

A Well, I happened to be interested vitally in 1923 in the Southern Alberta Oil Company, who had at that time all the major holdings in Turner Valley. They sold their interests, after peddling them around to everybody, the Union Oil and all the rest of them, to the Imperial Oil.

Q Did they offer them to you?

A Not to me. I was not interested at that time. The Imperial paid by creating a new company and paid them 49% of the new

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stock and took over everything, lock, stock and barrel. That is how that was acquired.

Q And what were the shares worth?

A The shares had a speculative value. I will admit that, just as the Royalite shares have a speculative value. But that does not change the fact. You made the statement that the Imperial with their own money developed it.

Q I said the Royalite developed the Royalite 4?

A Yes, the Royalite.

Q Now, we are only now at 1924. We have a long way to go.

A All right. I will come back to the main subject. The facts were for a while separator naphtha was sold almost entirely, in fact, absolutely entirely, to the Imperial Oil refinery and for some time to the Regal refinery. There was no Turner Valley naphtha finding its way to the consumer for various reasons. The main one was the average man owning an automobile or a tractor was afraid to use the raw product for fear it would cause trouble in his motor. It was generally known that it had, that the product had a high sulphur content and the result was for a considerable time there was none used. Instead, all the production went to the refinery. Then the production increased and someone discovered that it would work in a car. In fact, the employees of different companies in Turner Valley put it in their cars and it went and did not damage anything very much. The first thing people knew the farmers were interested and they came into the Valley, and they bought separator naphtha, and in a short time, say a year, there was a considerable market developed for separator naphtha through the fact the farmers would come to Turner Valley and buy the naphtha in drums and pay for it in cash, whatever the producer wanted. At that time separator

naphtha was selling for 10¢ to 12¢ and as high as 15¢ below the price that the Imperial was asking for a similar product, that is, a product that could be used in tractors. That created a condition where the independent producer then disregarded the posted field price of the Imperial Oil and the Regal Oil - they both posted the same prices, as I recall - and the Imperial was faced with a situation where their price did not mean anything because the independent producer was able to sell his output, the whole of his output, to the farmer at $3.50, where, if I remember right, it was 10¢ a gallon first, plus the tax - and at that time the Imperial said their crude was only worth $2.20 or $2.10. Now, naturally, the Imperial Oil, Royalite and Regal could not allow such a condition to continue because it was not only interfering in their purchase of crude separator naphtha but it was displacing their refined product in the market, and it was losing them a lot of money. So the trouble we found - I am just going by experience - the first thing the Regal Oil - Mr. Frawley, I think, is very familiar with these different factors - began to sell separator naphtha in Calgary, mixed with some other product, to the farm trade at a price in competition with the producer in Turner Valley. They did not charge the farmer the tax, the Provincial Government tax that the producer in Turner Valley was religiously collecting from the farmer, with the result that in a short time the Regal was doing a land office business, because the farmer was escaping the payment of the taxes on this refined product.

Q Did the Regal pay the tax for the farmer?

A Eventually, the whole tax situation was washed up by new

laws. It was found that the law was this and that and so forth - we will go into th t later. The facts are though that the Imperial then - I recall going to see Mr. Stevens, the manager of the Imperial Oil, and asking him about this situation, and I asked him the direct question. I said "Are you people selling similar product and not collecting the taxes?" He made the statement that they had not been but they would start immediately. And they went considerably farther than the Regal. The Regal did make a profit in selling at 10¢ without any tax, because the product cost them seven or eight cents, whatever it was. There was still a profit at the price when they sold it to the farmers. So that it was getting more profitable for the farmers to buy from the Regal than it was to go another forty-five or fifty miles and pay the same price and pay a 2¢ tax too. So it effectually began to curtail the purchases of the farmer in Turner Valley. Now, the Imperial Oil, when they said that they had a perfect right to do this because the excuse was the Regal had done it, they went to work and they set prices - at least they distributed this product to their various branches in the Province, not all over the Province but at all points where this naphtha was becoming a competitive factor, and they delivered stocks to these points and at prices that did not include or that was not sufficient to cover the cost or the price they were paying in Turner Valley plus the transportation to that point, with the result - and they also did not charge any tax under the pretence that the law was not very specific, which it was not at that time, in other words, it did not define gasoline.

Q This was really a tax evasion?

A I would not say it was or was not. I just say in the Valley the producer was collecting the tax but the other companies were not. We find then at that stage the Imperial creating a condition where the farmer did not even come to Calgary any more. He could buy cheaper in his own home town from the Imperial Bulk station and he could no longer afford to come into Calgary or into Turner Valley, and the result was that the producer, the independent producer in Turner Valley was seeing his stock, his production accumulate to a point where he could not sell anything. Now, at that time we also find an agitation to have a Conservation Act. It was just about that time, 1932. Now, you say "Well, what is the relationship between a Conservation Act and the price of Turner Valley naphtha, or a condition in Turner Valley where there is over-production?" I want to make this clear for the information of the Commission. The amount of naphtha, of separator naphtha that was produced in Turner Valley at that time was only a fraction of the market requirements of Alberta, let alone Western Canada. There was at that time considerable crude imported to make up the deficiency. So that the purposes of the agitation for a Conservation Act was not to prevent crude coming in or was not to conserve gas, although that was one of the factors and I am not going to deny it. But it was mainly the fact that the bigger companies had to find some way of preventing further development and preventing the independents from carrying on their activities, which had the effect of displacing the refined products of the major companies.

Q So they were instrumental in bringing about the policy of conservation in 1931 or 1937?

A Yes, and it was very effective.

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Q And that is why?

A Yes,

Q And you say that the Conservation Act was really prompted by the big companies?

A Yes.

Q Would you go so far as to say the last Act was prompted by the big companies?

A Well, I will read the result of that last legislation and you will have the picture your own way.

Q What I want you to tell me, Mr. Plotkins, if you will, please, is, you are against conservation in any shape or form?

A Oh, no. I am absolutely in favour of conservation, in other words, preventing waste.

Q You are in favour of conservation for the other fellow but not for you?

A Oh, no.

Q You have the whole output of this Sunburst well, haven't you?

A Yes.

Q You have bought all their production?

A Yes.

Q You do not want that well pro-rated, do you?

A No, not pro-rated to marketing, because that is waste.

Q How do you want it pro-rated then?

A I want it pro-rated so that that well will be capable of producing the maximum amount of oil as economically as possible, having regard to all the facts that influence production in the entire field.

Q Your position is the market requirements are not the measuring stick and if the Conservation Board thinks so

A.

that is improper?

A I will go further and say marketing requirements has the effect of regulating the competition of the independents.

Q But you say you are against governmental management of the industry and you include in that observation the Conservation Board, do you?

A Management of the industry?

Q Yes?

A Now, there is a difference between managing the complex problems of refining and distribution and laying down the law for the resources, the natural resources that are here, and are, because of the conditions, allowed to be wasted. That is two different things.

Q You have been against conservation as it has been applied in this Province from 1931 till to-day?

A No. That is not still in point. I was not against the principle of conservation even in 1932.

Q But you have been against conservation as it has been applied by the various Conservation Boards since 1932?

A I have been against the effect. I would not say that either. All I can answer is this, that the effect of the conservation laws of 1931 or 1932 were to deliver into the hands of the Imperial all the biggest properties in Turner Valley, with only one notable exception, and that is what I was going to allude to. All the wells they have taken over, one after the other, after they have made their properties valueless.

Q They paid for them?

A First they created a condition where these people could not sell their products. Then they paid them whatever they saw fit.

Q Please answer my question. Are you against the principle of conservation as it has been applied by these various Boards in Alberta?

A I am against the principle of pro-rating to the market. The rest of it I am absolutely in favour of.

Q You appeared before the Agricultural Committee in Edmonton at the last session of the House?

A Yes.

Q And you told the Agricultural Committee, which is a committee of the whole House, that you had had a telephone conversation that day with your chemist and that the Royalite Oil Company's pipeline had refused to accept the oil from the Sunburst well?

A That is correct.

Q Did you tell them why?

A At that time I did not know.

Q No. You just made that statement and left it at that?

A And it was correct.

Q It was correct?

A Yes.

Q They had refused?

A Absolutely.

Q You tell me why they had refused?

A I will tell you why now, certainly.

Q Yes, tell me. You just tell me why. That is all I want.

A That was at the time there was an interval between the time the Ma land Company had instituted action against the Conservation Board and the time that the new legislation was being framed. There was an interval between that there, to my knowledge, and to the common knowledge, in fact, it was in the newspapers, there was a notice to the effect that wells would be allowed to produce and there

would be no restriction imposed or at least no penalties imposed.

Q Yes?

A If they continued their operations and disregarded the old Act.

Q Now, where is the notice. Because there was no such notice. I want you to show me what you interpret as meaning that.

A There was such a notice.

Q Have you got it?

A There was a notice in the papers and the fact remains that the Mayland well continued to operate wide open and no prosecution took place.

MR. FRAWLEY: Mr. Chairman, nobody can explain that better than myself and, perhaps, I can now just say what it was. The Mayland interests commenced action against the Conservation Board of Turner Valley, seeking an injunction. While that matter was before Mr. Justice Ives and during the time he took the application under advisement, and before he gave his judgment, we were naturally asked what our point of view was respecting the enforcement of these orders against the applicant and the applicant only; We very properly said we would not enforce the Board's orders against the applicant while the matter was pending before Mr. Justice Ives.

Q MR. NOLAN: The Sunburst Oil Company was not one of those applicants?

A No.

MR. COMMISSIONER LIPSETT: Is that a recent thing?

A Last November.

Q MR. NOLAN: The Sunburst was not one of

the applicants?

A That is correct.

Q And you were endeavouring to get the Royalite pipeline to take the entire production of the Sunburst well?

A We did.

Q More than the allowable?

A More than the Government allowable, that is correct.

Q And they would not do it?

A No, they would not do it. That is perfectly correct. But they had done that before when there was no Conservation Act, so I do not see any big merit in their conduct.

Q Except you had informed the Legislature presumably they had refused to transport your oil?

A That was true.

Q That was true as far as it went but it did not go very far?

A Well, that was to the best of my knowledge.

Q Because you did not take the trouble to find out why?

A I did not have any opportunity.

Q You were on the telephone with your chemist in Calgary?

A Yes, but he could only tell me what the field had informed him. The reasons were naturally in the minds of the Royalite.

Q There is one other thing I wanted to ask you, Mr. Plotkins....

THE CHAIRMAN: Before you start another phase of the cross-examination I think we will take a short recess. May we see you, Mr. Frawley?

Q Mr. Plotkins, in your brief, Exhibit "123", you say you would recommend the rescinding of existing restrictive Statutes under which this artificial competitive system had been created, what particular Statutes did you have in your mind when you said that?

A I had in my mind a number of Statutes on the books of Alberta.

Q Yes, but what were they?

A Oh, they pretend or they purport to regulate the transportation.....

Q You mean the trade and industry's regulations?

A No, it is under the Fuel Oil Tax Act and under the Trade and Industries and under the Highways Traffic Board, the various large bodies who are now.....

Q And the Pipeline Act?

A No, there are no regulations, covering the Pipeline Act at the present time.

Q But there is a Pipeline Act?

A Yes, but there are no regulations under it.

Q Would you repeal that Act too?

A That Act?

Q Yes?

A Well, I would continue it, Judge Carpenter informs me that under the present Act he cannot do anything about it, all he can do is to declare it a common carrier, but he cannot set up regulations.

Q And what about the Conservation Act, is that restrictive legislation?

A It is in its present form, it purports to regulate production to market.

Q Yes. Now, I understand you to say, I think, Mr. Plotkins,

that it costs you 9¢ to transport by truck from the Imperial Oil Refinery to your refinery?

A That is correct.

Q And it costs 6¢ by the pipeline facilities?

A That is right.

Q Did I also understand you to say that in the busy season, and when is the busy season?

A Oh, it depends, in the Spring and Fall.

Q Does it mean seeding and harvest?

A Mostly, yes.

Q That is what creates the busyness of the season?

A Yes.

Q But in the busy seasons it is economical to you to use the pipeline facilities?

A At the present prices.

Q But that in the dull season it is more economical for you to use your trucks because they are not more profitably employed on other work?

A That is right.

Q And that is what you do?

A That is what I do.

Q You use the pipeline in the busy season and you use your trucks in the dull season?

A Yes,

Q And you propose to continue to do that?

A If the rates remain as at present.

Q Yes, and is it a fact, let me put it to you this way, when you transport from refinery to refinery by your trucks, how do you arrive at that 9¢ a barrel, does that take in depreciation and all those things?

A No, that is a price which we would pay, in fact we did pay,

a competitive price for that distance, we had a regular rate, a schedule of rates for trucking.

Q That is what you would have to pay another company to do it for you?

A Yes.

Q So you say that is a competitive price, and you give us that figure of 9¢ as what you would have to pay?

A Yes, that is correct.

Q I think I follow you there. Are you taking some oil now through the pipeline?

A No, I am selling it.

Q When did you take the last?

A The last, oh, approximately a month ago.

Q You, perhaps, know the date, and I would be glad to have it from you?

A I do not know the date.

Q Was it in November?

A I cannot say exactly. Really, I am ~~not~~ familiar with that end of it. The Plant Superintendent looks after that.

Q It is at least a month?

A I think so. We have been buying other crude and transporting it by truck.

Q Yes. I notice also that you say that based on your calculations of investment and expenses the price should be 5½¢ a barrel?

A Yes.

Q Well, now, what did you place as the value of the investment?

A Well, at this stage I do not think that I can intelligently discuss that phase of it.

Q Don't you think it would be better to delete that from your memorandum then?

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A No, I do not. When, when all the facts have been gone into by the Commission and I am able to correlate the various costs of the different operations then I will be able to say how I arrive at that cost.

Q Would you not leave that for the Commission to do rather than have two persons doing it at the same time?

A Well, I can present my figures and how I get at them.

Q Your figure at the moment is 5½¢?

A Yes.

Q And you are not prepared to discuss the background of investment and expenses?

A No, not at this moment.

Q But you did say, Mr. Plotkins, that we should leave the books out of the question?

A Yes.

Q And we should look to the physical assets, the physical inventory of the assets of the pipeline?

A Yes.

Q The physical assets of the pipeline as they are?

A Yes.

Q That is your idea as to how the rate-base should be arrived at?

A No, that is my idea as to the value of the plant and equipment that the Royalite should have in its operating of the pipeline end; in other words, I say this, that if you want to know the value of the plant and equipment of the Royalite division, the Royalite pipeline division, that you should send out competent engineers and make an inventory of what they actually have and value it at replacement values.

Q Yes?

A Having in mind the fact that Royalite is situated like any

other company, similar company, that when they build a pipeline or build a tank, they do not capitalize the associated labour, the administration expenses and the incidentals, but only capitalize the pipe, the pump, the tanks, and so forth, because usually the administration or the labour is disregarded because it is not recoverable, and that is the usual practice with Standard Oil Company and with any other well organized company in arriving at costs.

Q So you say "Forget the books and go and value the physical assets"?

A Forget the books, not entirely, but forget them for that and then come back to the books and find out the costs by that if it can be found out.

Q All right. Now, Mr. Plotkins, in this agreement that you have made with the Sunburst Oil Company, dated the 31st of March, 1938, and I think it is an Exhibit in the case,...

THE CHAIRMAN: Did you hear Mr. Hill's evidence the other day?

A I did hear Mr. Hill, part of it, I was only here part of the time.

Q MR. NOLAN: Did you agree with what he did?

A Well, he based his values on a totally different practice. As I understand it, he went out, or at least, yes, he probably examined the books and went out and inspected the physical properties, found out what the earnings of the company were, found out the possibilities of future earnings and just made up his mind on that basis what that plant was worth, which has no regard to the actual cost of putting that property there and he did not, most likely, take into consideration a number of factors that I would if I was charged with the duty of setting the

[illegible]

rate. For instance, there are three lines out there, n w, one is used to transport plant naphtha. I am still going to use those terms, I do not know of any other term, or at least that is the term I usually use, and one is employed to transport separator naphtha. Now, that is mostly, those two products being they are not sold to the public, they are mostly transported for the convenience of the Imperial Oil Refinery and the cost of transporting them does not enter into the calculation of maintaining the line, they have that product and they are going to transport it no matter what the cost is. Well, now, if there is not sufficient plant naphtha or separator naphtha available to create an open market and thereby the two lines are only going to be used intermittently, is it right to include their value and the cost of their operation for the minimum amount that is going to go on gradually decreasing, it is only a question of a short time until there will be no separator naphtha and it is true that for some considerable time there will be plant naphtha, depending upon conservation, but the way it looks now there will not be any plant naphtha, so those two lines and that investment and that part of the cost of maintaining, and administration and operation, has to be gone into, and there are other aspects such as whether the pipeline division maintains part of their staff for the convenience of the Imperial; in other words, they may have other activities in the field that have no relation to pipeline, but the pipeline division is a convenient means of handling it in the field. Well, now, all those things enter into what it costs, and I am surprised at this stage, I want to make the remark, I am surprised that the Royalite, or the Standard Oil of New

Jersey coming into this court and allowing all these discussions of hypothetical costs of administration, to spend all that time, when I am convinced in my own mind and from experience that they must have their books kept in such a way that they know what it costs; in other words, they have not properly segregated, I spent three years with the Maple Leaf Petroleum, which is now one of the Standard Oil of New Jersey direct subsidiaries, and I cannot conceive of the Royalite not knowing what it costs to gather, what it costs to transport; in other words, you are dealing with a puzzle, with figures where actually the figures must be available which will determine exactly what it costs to do it, because I am convinced, and what I know of the company's operations, that they have properly segregated their expenses.

Q So you feel we have beem wasting our time?

A Well, I feel that something has happened which is not right. I would not say wasting your time but I feel that the Royalite is in the position, should be in a position to present a proper figure without in all this time going into 28% and 15%, when the two figures must be available.

Q Now, in your contract with the Sunburst Oil Company dated the 31st of March, 1938, Exhibit "122", I notice a definite agreement between the Sunburst Oil Company and yourself.

THE CHAIRMAN: The contract with the Sunburst.

Q MAJOR LIPSETT: Before you start that, you said something about three pipelines and two of them being chiefly used for this plant naphtha?

A And separator naphtha.

Q And separator naphtha, is that solely for Imperial purposes, or does anybody else get it?

A Well, I am informed, I am informed, just bean recently informed, that the British American does use one of the pipelines for separator or plant naphtha to some small extent.

Q I don't know quite what your point was, what point you were trying to make?

A I was trying to make this point, that they have accumulated three pipelines through their activities in Turner Valley, the first two were acquired because of the necessity of transporting naphtha. In fact, they inherited one from the Regal, so that now we have a crude oil field, the naphtha is disappearing, that is the production is gradually being reduced to practically nothing; now, normally, if there had never been a naphtha field the Imperial or the Royalite would have built a 6-inch line, or whatever it is, they would have considered necessary, and there would have been no other line, but now at this stage you are asked to consider an investment of two other lines, which have served their purpose in the main, and asked to recapitalize them and to provide for their retirement and for profit, and it is true that the Royalite will answer "Well, the present 6-inch line is not of sufficient capacity so that at times we are forced to use the three lines." Well, now, that is only true because the Conservation Board imposes a system of pro-ration to market. If to-morrow they decide that is wrong and they want to allow production to come out of the ground in an efficient and unwasteful manner, uniformly throughout the year, or at least as uniformly as possible, that 6-inch line is twice as big as necessary or at least it is considerably of greater capacity than would be required under that condition, so you have to take those factors into consideration.

Q MR. NOLAN: Now, looking at this Exhibit, it is "123", it is the agreement between the Sunburst Oil and yourself as the refiner, and Lion Oils Limited as the distributor, and you hold a controlling interest in Lion Oils Limited?

A No, I hold no controlling interest.

Q You hold an interest in it?

A One share of $50.00, a share.

Q Who holds the others?

A A number of Calgary and Alberta citizens.

Q Nominees of yours?

A No, they actually own them.

Q And in this agreement, to just look at one or two clauses or paragraphs, I notice in 2 (d), have you it beforeyou, you have not another copy of it?

A No.

Q "The intention and agreement of the parties hereto is that the refiner' and the refiner is you, Mr. Plotkins,'and the distributor', that is Lion Oils Limited, 'shall purchase, use, treat, process, distribute and market in their respective aforesaid businesses the production of the said well in priority to and with preference over any other petroleum and, or petroleum products up to the extent and amount of the production of the said well as the same is produced from the said well." That means what, Mr. Plotkins?

A It just means that in our operations we use preferably,.....

Q The production of this well?

A Of this well.

Q And then I see some provision is here for storage. I made a note of them, in 5 (b), the amount of the surplus, all the

surplus production from the well sold or marketed by the distributor shall be sold on the basis, no, that is not it, yes, 5 (b), that is "the distributor', and the distributor is the Lion Oils Limited, ' may from time to time provide storage facilities on the refiner's own premises for storing a portion of the production of their said well as may for the time being be beyond the then immediate requirements of the refiner's refinery and the distributor's market. Any such production so stored shall be and remain the property of the producer until paid and settled for by the distributor." What storage do you charge, Mr. Plotkins, under this contract?

A Well, so far that question has not arisen because we have been prevented from producing more than we can market from time to time.

Q What was the storage rate you had in mind?

A Well, that would be a question of negotiation, well, in fact, I do not know that that would either, I think we would be called upon to pay it because it would be for our convenience and I do not see how we could charge storage to the Sunburst Company.

Q Then I will pass to paragraph 7 (c), "The distributor', that is the Lion Oils?

A Yes, the Lion Oils Limited.

Q 'Shall with respect to the surplus production of the said well disposed of by it be entitled to charge and deduct from the proceeds thereof, in addition to the charges under paragraph (c) of clause 6, a commission at the rate of 8% of the sale price, F.O. B. Calgary or Turner Valley, Alberta, as the case may be, or 7½¢ per barrel of 35 Imperial gallons, whichever is the greater." That means to say

that the Lion Oils Limited reserves to itself the right to dispose of any surplus production not needed for their own refinery requirements?

A No, we didn't reserve the right, we undertook under that contract to dispose of it and pay for it no matter what happened, and collect that commission in doing so.

Q "Shall be entitled to charge and deduct this commission"?

A That is right.

Q What did you sell that surplus production at, what price?

A All the production, all the surplus which we have sold so far has been sold at the regular pipeline price plus the charge.

Q At the regular field price plus pipeline?

A Yes.

Q All of it?

A All of it.

Q Since this contract has been in force?

A Yes.

Q That is putting the Lion Oils Limited in the position of a broker for the purposes of resale?

A That is it.

Q It is over and above what you require for the purposes of your own refinery?

A Well, it was done so as to provide an elasticity, from the time we took the well's production, which might be a big producer, until the time we could adjust our operations to absorb that production. In the meantime, we would sell.

Q Yes. Now, I do not want to lead into any discussion about this question with you, where you ask about Mr. Hill and the firm of Ford, Bacon & Davis, which Mr. Frawley asked you about, but I just want to put this to you, do the Standard

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Oil Company or any of its subsidiaries own any shares of stock in the firm of Ford, Bacon & Davis?

A Which Standard Oil?

Q Any Standard Oil?

A My information is that, that all the Standard Oil Companies jointly operate in that way.

Q Why didn't you put that to that man when he was here?

A Why didn't I put it?

Q Yes, you heard him?

A He may not know.

Q You know, do you, where did you get your information?

A I got my information from the United States.

Q Yes, where?

A Well, when the time comes.....

Q The time has come, Mr. Plotkins.

THE CHAIRMAN: Yes.

WITNESS: Well, I do not feel it has.

Q MR. NOLAN: Well, we do, and the Commissioners supports me.

Q THE CHAIRMAN: Mr. Plotkins, you made a statement here, you said this, "Is the engineering firm of Ford, Bacon & Davis, of which Mr. Edgar G. Hill is an employee of, a part of the Standard Oil system of engineering appraisal legal and management firms owned jointly or individually by Standard Oil Companies?" Now, what did you mean by making that observation?

A Well, I just put the question to the Commissioners.

Q You put the question, and why?

A Why, because I feel if that is the fact, and then you have the answer to a lot of our difficulties when it comes to putting legislation on the books of this Province.

Q Well, you say you put the question?

A Yes.

Q Am I to understand that you put it in the hope that some day the Commission would have the answer?

A That is it.

Q And that you have no reason to now suppose that your question is based on fact?

A Well, I will put it this way, Mr. Chairman, that I am hoping that the resources at the command of the Province will permit them to get to the bottom of it and my reasons are that it is common knowledge in the trade, that is in the oil trade, in the United States, and what I mean by the oil trade, I mean the people that I am in contact with, in my purchasing of the lubricating oils, greases, crude oils, Ethyl and so on, all these various facilities which we must attend on, for it is common knowledge among these men, the executive, that it is one of the firms owned by Standard Oil Company.

(Page 3282 follows.)

Q THE CHAIRMAN: You say it is within the knowledge of these people. Who has stated to you that it was within their knowledge?

A That is right.

Q MR.NOLAN: Who?

A I am telling you various men, such as the representatives of the Universal Oil Products, which is a patenting pool company; Railroad officials that come into contact.....

Q Who, the name?

A Why the name?

Q THE CHAIRMAN: Well because.....

A I am not making an assertion, I am asking the question.

Q You say it is within the knowledge of these people. How do you know that? Let us be quite clear. You are here as a witness at the moment. You are not now running an oil plant. You are here under oath?

A Yes.

Q You say it is within the knowledge of these people. Assuming that you ~~are making~~ only a ~~statement~~ that is true, how do you know that?

A Well, I must in my experience - I mean I must draw from my experience in weighing matters.

Q Did anyone ever tell you that it was within their knowledge?

A Yes.

Q What is the name of the person who told you that?

A No, I do not think I want to answer that. I do not want to implicate any other people at this stage, because there were other assertions or at least other questions I have put and you will want to know this and know that, and you are entitled to know, but I do not want to jeopardize the other things I am going

to be able to present to this Commission by revealing my means of information at this time.

Q As I understand you, you are not refusing to answer, but you say if you are now compelled to answer it will prevent you getting other information?

A That is correct.

Q But ere this Inquiry is concluded you are prepared to make answer?

A That is correct, yes sir.

Q Let us have no confusion about anyone standing there and saying "I won't answer".

A That is correct.

Q THE CHAIRMAN: Well Mr. Nolan, that is the reason.

MR. NOLAN: And he has your permission to delay the answer to this question until the time it seems proper to make it? That is, of course, before our Inquiry is over.

THE CHAIRMAN: That is so.

A That is correct.

MR.NOLAN: I stand by what the Chairman says. I am quite content with that, Thank you.

Q MR. FRAWLEY: I had just a question or two and Mr. Patterson perhaps has some. Mr. Plotkins, you told me that you were familiar with the crude situation in Montana, personally familiar with it?

A Yes.

Q Is there any question in your mind as to there being real competition between Montana crude and Turner Valley crude. Is it a real competition that exists?

You said something about competition being taken into account in part at least in arriving at the Turner Valley price competition from Montana. Now I want to know if there is any question about the reality of the competition between Montana crude and Turner Valley crude?

A There is no competition between Turner Valley crude and Montana crude.

Q You say there is no competition?

A No. For this reason as I explained before, the Imperial does not have to worry about the Kevin-Sunburst or Cutbank crude. It is in strong hands, in hands that have a market. They control their own marketing facilitie . The independent producers in either the Cutbank or the Kevin-Sunburst field of themselves can never compete in this territory. They have no means with which to find markets. In other words, offering crude does not create competition. There must be people available who can buy that crude and can refine it and market it. That is one of the difficulties in analyzing competition in the oil business. They can offer crude for nothing. Right now there is odd lots available for 50 cents a barrel and it does not move into Alberta.

Q Yes, why?

A I will give you an instance. I have some crude down there. I cannot afford to bring it up here. Yet I have a market for it.

Q Why?

A Because by the time I pay the freight and pay the excise and refine it I cannot make it pay.

Q Cannot you sell it in Saskatchewan?

A No, I have tried.

Q Is there not a very close relation between the price of Cutbank crude laid down in Regina and Turner Valley crude laid down in Regina?

A No, not laid down in Regina because there are no independents in Regina to buy it.

Q There is one, Mr.Fowler's company? The Consumers' Co-operative?

A Yes. Are they in Regina? I was under the impression they were in Moose Jaw. They would be in a position where they would pick their crude on the basis of value, and all other small refineries. But their volume is small compared. In other words, it would not justify the producer in Kevin-Sunburst embarking on a production program to supply a market which today is there and tomorrow is gone.

Q You said you had crude in Montana. We will be going into the reality or otherwise of the Montana competition as entering into the Turner Valley price. But I say to you there is an independent refinery in Regina. Why could you not sell that crude you have in Montana?

A For various reasons and I will enumerate some of them. There is not only the question of price enters into crude markets. The price may be competitive, but the facts are that the Turner Valley crude, because of its different make-up, different basis, different gravity, different composition, requires less capital to refine and market. That fact, prices being equal, would still permit the

[illegible]

Regina independents to purchase.....

Q Turner Valley crude?

A Turner Valley crude, and then there is another factor I happen to be familiar with, and I do not think I am disclosing anything. I endeavoured to sell them crude, Turner Valley crude as well as Kevin crude.

Q You endeavoured to sell whom?

A Regina, what do you call them.

Q The Consumers' Co-operative?

A The Consumers' Co-operative. They said "Well we are perfectly ready to buy crude at the pipe line price but we need some credit. We need a $6000.00 line of credit. We need also someone that is big enough to carry us during the winter time and so on."
Now that is another fact that influences markets.
Now then, there is another factor, the quality of the crude. When we refine the Kevin-Suhburst crude we not only get a smaller quantity of gasoline, and I am referring now to the independent plants, that are topping plants - but we get an inferior octane grade of gasoline and that product is not comparative, and the refiner and the marketer has that to consider.
So that there are a number of points apart from price and straight competition that affect the situation.

Q All right, thanks, Mr. Plotkins.

MR. HARVIE: Mr. Chairman. On Mr. Plotkins' evidence there are some points that I would like to examine him, but they really come under marketing and refining rather than pipe line. As far as I can see from my notes there is nothing

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strictly on the pipe line, and I will question him - I understand he is to be recalled and will be giving evidence on the other phase, and possibly it would be keeping matters in more logical sequence by leaving that part of the examination until the proper time.

THE CHAIRMAN: Whatever you think, Mr. Harvie.

MR. HARVIE: Yes.

Q THE CHAIRMAN: I just want to be quite clear on one thing. You said that the Imperial fixes, at least the Royalite fixes the price of crude in Turner Valley and that an independent has no way of getting away from that, because their measure of control is such that their price fixing could not be interfered with by anyone else?

A That is correct.

Q I do not fully appreciate that and I want to understand you, as to where you say that point is reached that an independent cannot, by bidding, affect the prices. You see as I understood you you said if they had control of 10% it would have an effect?

A Yes.

Q Where does it stop? Where is the dividing line?

A There is no dividing line as far as the ability to purchase crude. 10% might do it or 5%, depending on the firm that is doing it, and what I mean by depending on the firm is this, in order to get the answers to the crude situation you must know the marketing end. You must know the set-up or the picture of the marketing end 100% because it is only the ability to market the finished product that gives you the chance and the ability

to effectively buy. In other words, I would be in a position - I would not be in any position to buy anything if I did not have any outlet. If I did not have any refinery or outlet. If I have the outlet and I can still contract and I am purchasing it and the Imperial in this case knows I am able to, they recognize that fact in weighing the competitive factors. On the other hand if they know I am on a basis where tomorrow I may be a factor, in other words I have secured a customer, we will say a big job, and I am able to sell them some finished product, The volume is very respectable and it permits me to go into the Turner Valley field and contract for 2000 barrels a day. Now the Imperial is in this position, if there is no way of breaking or interfering with the contradt between me and the refiner, and that jobber as the marketer, they must then come to me and say "All right, what are you going to do? What price are you going to pay?" Well now, they will bargain with me and say"Well now, we know. You do this and we will do that." In other words what we call a game of see-saw. They will give us advantages in other fields or in another piece of business, or if they happen to be a Canadian wide company, in another Province. In order to see they have no disadvantage, and if I do not fall in in with their views, what happens is this, They won't come to me. They will endeavour to put that jobber in the difficult position, by offering him a better price, and he will break his contract without any qualms of conscience, or by cutting or reducing the selling price of the refined product in the territory market. Which is another way of saying that whoever

controls the price and the market of finished products, controls the crude situation 100%.

Q Have you had that experience?

A Yes. I can relate a personal experience, of the Maple Leaf Company. This was in 1926. The Maple Leaf is a typical example of what happens to a company that endeavours to, even with a lot of money - and it had a million and a half dollars which to them looked like a mountain of money, and to me looked like a mountain of money - is a typical example of a company that starts in and owns its own crude and its own refinery, and has enough money to go out and establish its market and still is crowded out and crushed out and taken over by the Standard Oil of New Jersey and their shareholders are thrown 10% on their investment. What happens there is this. They were not able to interfere with the crude because the crude production was in the hands of the directors of the refining company so they were not going to sell out their crude in order to interfere with their investments. They could not interfere with the refining because the refinery was owned by the same people. These people had sufficient money, sufficient income and they went out and established their own marketing output at the time when competition was much more restricted than it is today. I happened at that time to throw in my lot with them by leasing them plants and went to work for them as sales manager in charge of marketing. And the Company established itself in Calgary and Drumheller district from the South, that is from the border, Coutts, to North of Calgary a few miles and East about 125 to 150 miles.

But they made the mistake, the directorate made the mistake of concentrating their marketing efforts in a limited area which made them vulnerable. What happened? They had the refinery, they were able to produce cheap. They were able to refine in competition. They were able to market as cheap or cheaper than the Imperial. But after they became aggressive and had already taken up a great share of the market in that particular territory, Mr. Stevens, the then manager - well he was then assistant-manager and Mr.Teagle was then manager, just nicely notified me and our Company that we had to discontinue this practice and that practice, and gave me a three page typewritten "don't do this" and "Don't do that" and "Don't do this . It was against the ethics of the business." Now what happens? They threatened if we did not observe their regulations or their ethical precepts that they would put us out of business, and they did, and they did it in this way. The directors were weak. They refused to stand up against the competition of the Imperial. I advocated that they stand up. Why? Because I knew the business. I had been at it then for a number of years, but the management felt or the directorate felt that the Imperial was a big company and their resources were so much more than they had and it would be unwise to fight. They forgot that in the oil business it is when you do not fight that you go out. What happened was, in spite of the promise of the Maple Leaf directors to abide by the demands of the Imperial Oil, which was to cut out this and put the price up and so on and so on and do

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this and do that. They cut the price 2 cents just the same. That was about two weeks after these meetings, and in a few weeks another two cent cut, and then they began to undermine the Company. The Standard Oil of New Jersey - I happen to be familiar and I am talking from personal knowledge, then approached the main shareholders and offered them a premium for their holdings which assured them a nice income for quite a few years, and left in the lurch the minority shareholders - and Mr. Frawley is in a position to speak as to that because he helped to investigate. I made charges against the directorate at that time and Mr.Frawley was good enough, after a lot of prompting, to go into that end. He is familiar with the situation. Now the result was that we had a meeting of the directors. I myself and an accountant went through the records and the situation developed that the people that had control of the shares had secretly sold out to the Standard Oil of New Jersey direct. There were no intermediates. I happened to be one of the shareholders with $10,500.00 in there, and was fighting good and hard to preserve it. The shareholders finally received, after a number of years, 10%. I received 100%. Now here is a company that had everything to work with, and would have prospered in the normal course of things, but there were conditions brought about and they were undermined to the point where the Standard Oil finally took the plant over and the rest of us had nothing to do about it. There is a situation there. Now that is typical of the methods that are used to determine competition.

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They adapt themselves, the Standard Oil officials naturally are quite capable of analyzing a situation in any given instance and adapt themselves to that situation and conforming themselves to it and bring about conditions that they wish to create.

(At this stage the Hearing was adjourned until 10.30 A.M., January 31st, 1939).

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The Province of Alberta

IN THE MATTER OF THE PUBLIC
INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta JANUARY 31st, 1939

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VOLUME 27 - January 31st, 1939.

WITNESSES:

E X H I B I T S

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31st January, 1939.
10:30 A.M. Session.

LEON L. PLOTKINS, having been recalled, examined by Mr. Patterson said:

Q MR. PATTERSON: There are a few questions, my Lord, that I wish to ask the witness.

THE CHAIRMAN: Yes.

Q Mr. Plotkins, in answering Mr. Nolan, you were discussing a situation in Turner Valley under which the independents had a great amount of crude naphtha?

A Yes.

Q And were supplying the Alberta market?

A Yes.

Q And you went on to say that the Royalite put out a product which was able to compete with the crude naphtha?

A Yes.

Q You said something about the Imperial claiming that this product they sold was not subject to taxation under the then existing gasoline tax act?

A That is correct.

Q And it was sold without the payment of taxes?

A Without collecting the taxes from the consumer.

Q While the independents were selling and collecting the tax?

A We collected it and the Government were insisting that they should collect it.

Q Now I think you were going on to say what you considered to have been brought about by that situation?

A Yes.

Q What was that?

A When that situation occurred whereby the farmers could buy at Red Deer or Ponoka or Youngstown, or a number of points throughout the Province, and those points that were stocked by Imperial

with naphtha, depended on the fact of whether the farmer in that district was actually going to Turner Valley or not, in other words they did not stock any cheap naphtha in any district where there was no competition, where it was not necessary, but in the district where there had been established a market for naphtha, the Imperial in that particular locality in their own bulk plant stocked this naphtha and sold it at a price usually of about one-half the freight cost between Turner Valley and that point without collecting the tax.

Q In other words competing with the crude naphtha?

A What they did they simply took the Turner Valley field price and added one-half of the freight, the cost of shipping that naphtha from Turner Valley to the point of distribution and to make sure that no one could compete with them they just cut that cost in two and the further fact that they did not collect any tax placed the producer in Turner Valley absolutely out of range insofar as the competition is concerned and he was soon in a position where his stocks accumulated and he could not sell them and at that particular time I recall the Mayland interests had used quite a lot of tankage, they built more and more tanks hoping the time would come when that situation would change and the other interests, the bigger interests in the Valley, - the smaller interests they were more or less compelled to shut their wells in, - the other larger interests bought tankgage and accumulated the products. Now at that stage there was the same agitation as there is today "find markets", the general public was not aware that the market existed but had been artificially closed to the producer. Now I at that time approached an independent

refiner, a large independent refinery at Coutts, it was then called the Stellarine plant and that was previous to its acquisition by the British American Oil Company. You will notice by the way, that all these independent plants just seem to slip right into the hands of the major companies. At that time the Stellarine Company were willing to purchase naphtha for distilling purposes and do away with the Oklahoma product they were importing, so that we made a contract, I made a contract as an individual with them to purchase naphtha in the Turner Valley field, process it and transport it by truck to Coutts. Well now I am stating that because, to show that even although the Imperial or other companies can shut up a market, a former market, it was still possible to anyone familiar with the business to find other outlets and that is exactly what those in the business, that we in the distributing end of the business, proceeded to do, find places where it could be marketed. Well now at that particular time as I say the same agitation occurred, everyone on the street, the papers and everybody else was full of the fact that we could not sell our naphtha, at least the independents could not and that, coupled with other factors, caused further agitation and as I recall it the Government was pressed to do something about conservation. Now the fact, I want to say probably before I go into that matter, I made representations at that time to the Provincial Secretary under whose department the tax is being collected and I pointed out other various instances over several months, without getting any reply, that the bigger companies were evading the payment of taxes and finally in December, 1932,

A if my memory serves me right, I notified the Provincial Government that I too was not going to collect any more taxes because my business had dwindled to the point where I could not sell anything. My farmer customers or other customers would not pay me a premium to do business with me, so the result was that in that year, I reached the point where I was doing little business and I notified that department from that date on I was collecting no taxes. Then I think Mr. Frawley will recall I was prosecuted over a period of a year or a year and a half and the end of it was that the department in Edmonton lost, according to the information that Mr. Trowbridge gave me at the time, a sum between 500 and 750 thousand dollars. In other words, the treasury was deprived of that much money because the Imperial and the Regal and other companies subsequently, - myself to the sum of $7500 I think, did not collect the taxes.

Q Mr. Plotkins, I suppose you are not saying, not asserting that the tax was a legal tax and should be collected, you are not necessarily asserting that?

A No, I am not stating the legal position.

Q They may have had legal grounds for not collecting it.

A They may have been justified but I am only stating the results.

Q You are just stating what resulted from that situation?

A Yes. Now that agitation and that situation brought about some loss, a Provincial loss---

Q THE CHAIRMAN: You started to speak about Stellarine?

A Well if I follow that, the minute I secured the market in Coutts, by the way, I also began to ship naphtha across the line, I found markets in Montana and the reason there were markets available was the fact that naphtha was going to dis-

place casinghead naphtha in Montana for the same reason; we could lay it down to the refinery cheaper, at less cost than the competing products from Oklahoma or California but I recall about three months or less, two months, after I began to move a considerable quanity of this product South, that the Conservation Act came into being and the police, the Mounted Police, shut our plant down in Turner Valley and inside of about two weeks I had no contracts and I had no plant. Everything was shut down. Well now it may have been due to this, it may have been due to that, but that is the fact of what took place. Now at that time the Royalite began to purchase these properties. I recall that I had a contract with the Commonwealth. I had a contract with Eastcrest Company. The Eastcrest Company did not sell though, they were in a little stronger position, the manager was able to build storage and says "we will wait until conditions improve" but most companies were not in that position with the result that Royalite acquired company after company. Now the reason they acquired them is very simple, because they could not market their product and as a result could not pay their bills and could not maintain their establishment and they were better off to accept Royalite stock which was at least paying a dividend and was convertible into cash on the market, than to continue carrying on producing properties which were losing money with no immediate hope of any betterment. Now that is the situation that prevailed at that time and which is a parallel today.

Q THE CHAIRMAN: What time was that?

A That was, if I recall right, in 1932. I think I can refer to

the date of the acquisition of the Imperial Oil or the Royalite and that will give us approximately the time. Mr. Frawley can tell us what year that was in, all this tax trouble and subsequently.

MR. FRAWLEY: I have not looked at it, Mr. Plotkins, for a long time and I do not recollect.

A It doesn't give the date here, I can look that up, sir, and let you know.

Q THE CHAIRMAN: You say about 1932?

MR. FRAWLEY: If it relates to the Conservation Act, the Act was passed, my Lord, in 1932, nobody knows better about that than my friend Mr. Patterson, about 1932.

A When was that.

Q MR. PATTERSON: That Act was passed in the Spring of 1932.

A Well it was about that time, 1932, 1933, was when all this uproar took place in Turner Valley.

Q Mr. Plotkins, in order to get this thing right, you are not suggesting the Imperial Oil Company did anything illegal in connection with these matters?

A Well I don't know. It is just my difficulty in arriving, what is legal and what is illegal. It is a fact as far as I am concerned that conditions were brought about that forced these companies to sell. Now I do not know whether it was legal or not legal. It was not morallly right so far as I am concerned, to bring about conditions that would dispossess someone else.

Q Perhaps this is what you are saying, that these companies have efficient generalship and management?

A No doubt about that.

Q They adapt themselves to the fields they have to operate?

A That is exactly it.

Q Now Mr. Nolan spoke to you about a statement which you made at the agricultural committee, that Royalite had refused to take your production?

A Yes.

Q And he was referring to the period after the Mayland action had been commenced?

A Yes.

Q Now going back to the period before that Conservation Act had been passed, which the agricultural committee had under consider tion?

A Yes.

Q Prior to the passing of that Act there was no government restriction on the production in Turner Valley?

A That is right.

Q But there was proration by the Imperial and the B. A. in respect of the wells they had under contract?

A That is correct. They purchased a proratio from their own contract holders with their own wells but it did not apply to independent production.

Q Prior to the Conservation Act, at that time the Sunburst was entitled to produce to its full capacity?

A That is right.

Q And you were entitled to take, so far as the law was concerned as you understood it, the full capacity of Sunburst?

A That is right.

Q But I understand you to say that the Royalite prorated transportation so far as the Sunburst was concerned?

A That is the situation, they insisted on prorating our production

for transportation purposes.

Q On the same basis?

A On the same basis that their own wells, which had a little different effect.

Q And that had gone on for a long period before the conservation act was passed?

A That is correct.

Q And had continued up to the time that Mr. Nolan speaks of?

A Up to the time the Government began to do that. I might say there, that that is also a tactic calculated to create a condition, because it is self-evident that if any one company is able to impose conditions on wells or on operators that are not under their control or are not under contract, which will tend or will actually prevent them from producing their wells to a capacity where they can make it pay and provide for further drilling and so forth, naturally if one company is able to prevent them from doing that, it cripples them or it at least curtails their operation and that is exactly what took place before the conservation was in effect and it is exactly what is taking place now with the aid of the law. The conservation act forces them to do that now, where the Imperial forced them to do it before.

Q THE CHAIRMAN: Was that a competing factor with the other wells, the fact that they refused to transport?

A Well they refused to transport any more than they considered was the allowable, their allowable, nothing to do with the Government whatever.

Q Was that the same proration they enforced on their wells and their contract wells?

A It was the same proration but they decided what it was.

Q But they applied it equally to every well including their own?

A Yes, that is true, and with which we were not concerned, the independents were not concerned what their markets were or what they chose to do. Now at that stage, at that point I want to make a little observation that will probably clear a point that Mr. Nolan was making about the Imperial or the Royalite refusing to take oil which was produced above the allowable. Sometime ago I went to see Mr. McLeod and asked him to do me a favour. I knew that it was done right along in their own organization because necessity sometimes forced it, and I asked him if he would be good enough to allow me to produce a little more oil at a given period and then, transport that and then close down on us for the latter part of the period. In other words for a number of days we produced considerably above the government allowable but at the end of the period it was made up. Well now that is necessary and if a company can do it at one time they can do it at another time and there would be no crime on my part to ask them to transport so many thousand barrels or so many hundred barrels of oil at any given time.

Q THE CHAIRMAN: Were you asking Mr. McLeod to join with you in doing that which the Act prohibited?

A I don't think the Act prohibited it. The Act did state that we were to produce so many barrels, I do not know as it stated to produce it in a given time. In fact since that time the Conservation Board has made or has laid down a definite basis for production, so that now we are supposed to produce so much a day, where before it was calculated on a

monthly basis, so that we would be well within our rights to produce for two weeks at a greater amount and then shut down or slow down for the latter, for the latter part, so that in that time we would produce only the legal amount.

Q THE CHAIRMAN: I am not quite clear, Mr. Plotkins, that we are concerned in this inquiry with the refusal of the Imperial to market the products because if they will not market it, there will not be the through-put and the producer will not get a chance to sell his oil?

A No.

Q So where do you suggest that they get their requirements; supposing there is something in your view that they might not want to take all they could or that they were allowed to, how would they satisfy the market, get their oil elsewhere, would they?

A No, what happens in any organization is that we do not produce exactly what we require, we have a certain margin of reserve.

Q Yes?

A And that reserve allows us to, at times, slow down or increase our takings in the field.

Q Yes?

A Now, if a company had big enough reserves and could create conditions for two months or three months, a long enough period, knowing that the group of companies in the field is in such a position, two or three months will just bring them to their knees, in a financial manner, naturally they are able to make money by that because if they watch their chances or if, as in the case of a company like the Royalite, they have a company under contract, and also in a good many cases, administer its affairs, they are then in a position

to watch the times that they have not, they are not able to sell enough production to meet their ordinary expenses and they bring about a condition usually very hard on the company because most of these companies are in the hands of a trust company and the trust company insist on performing one hundred percent irrespective of conditions, with the result that the Royalite is able to create a condition under which they can purchase those properties or companies pretty well at their own figure. Now there is the trouble in Turner Valley and always been. In other words if I, I am in a position to withhold purchases for a given time I can create a condition---

Q Yes?

A Yes, and that is exactly what takes place.

Q Can you name any companies that were squeezed out in that way?

A The facts speak for themselves.

Q All right, but do you know of any, you have been giving what are supposedly facts?

A Yes, I think.

Q Do you know any?

A Yes, I think before this inquiry ends I will be able to bring evidence to that effect.

Q You want to defer the answer to that?

A Absolutely.

Q You understand perfectly that some day you are going to answer it?

A Oh yes, perfectly.

Q All right, any questions, Mr. Frawley.

Q MR. NOLAN: I want to ask Mr. Plotkins if I might be permitted, if he was suggesting that under the Conservation Board order the allowable of crude oil was ever on a monthly

basis?

A Well so far as I know that is what, the way it was operated.

Q Beg pardon?

A That is the way I understood it to operate.

Q Because my understanding was that it was always on a per day basis and that I think can be corroborated if it necessary to call evidence from the Conservation Board.

A Well you will find that at a given time the Conservation Board did make specific regulations saying that we could figure so much a day with an allowance of 10 or 15%. Previous to that there were no regulations and I know that Mr. McLeod would not have acquiesced in my request if it was against the Conservation Act.

Q No, he would obey the law?

A He would have obeyed the law.

Q MR. FRAWLEY: You were telling us yesterday about the Maple Leaf Refinery at Coutts and at page 3291 you said that you were one of the shareholders with $10,500 in there and was fighting good and hard to preserve it?

A Yes.

Q The shareholders finally received after a number of years 10%. I received 100%, will you tell us a little more about that, why you received 100%?

A Well it is a long story but I suppose if you want me to tell you.

Q Tell it very briefly, as briefly as possible, there seems to be something left unsaid there as to why you should get more than the other shareholders got?

A Well the facts were that after investigating the books of the company, or I will go further---

[illegible]

A The real facts in connection with the influence of the Standard Oil of New Jersey on the Maple Leaf Oil & Refining Company were disclosed to me by the then Secretary-Treasurer of the Company, who was, I do not recall his name, but I do remember that he was very much afraid that he would get in trouble with the law of the country. He was an American and did not know the Canadian laws and he was certainly afraid. And he made a report at my request stating the transactions as he had recorded them through the books, and he showed where there had been any amount of conditions where the parent Company or at least the controlling company in Minneapolis had, what we normally term, milked the company.

Q Let me interrupt you. The Maple Leaf Company was an American owned Company?

A Originally it was a company owned approximately 50% by Canadian producers owning property in Montana and 50% by American producers owning property in Montana.

Q It was refining Montana crude?

A It was producing, refining and marketing Montana crude. Then some one suggested increasing, or at least extending the business. At that stage American banking interests, which later turned out to be the Standard Oil of New Jersey, came into the picture and advanced half a million dollars, and subsequently advanced another half a million dollars and finally, or at least during that time that the Minneapolis Company, which was the Mid-West Oil Company or some such name, Mid-West Oils, that they assumed control and the Company's offices were no longer under the orders of the directorate.

They took orders from the Minneapolis office and all purchases of tanks and pumps and all supplies had to be done through them. The sales were under their control and it turned out during the investigation that they collected a commission both ways, both when they sold and when they purchased. The line of supplies were tanks and pumps and different things, and were purchased from their own company. So that in a short time the Maple Leaf was losing money where before it had made money and it was on that strength that it was expanding. In a comparatively short time it was in the red. Now I had become familiar with some of the factors that was causing the company to lose money and I protested to the directors. Finally as I said I prevailed on the Secretary to disclose the true position and he made the report. It was on the basis of that report that the Attorney General's Department of Alberta gave me help in bringing about a review of the situation. In that Company there was, if I recall, about 150 shareholders besides the directors producing the oil, and they had prevailed on other men and women scattered over part of the United States and in this country and in the Old Country, Scotland, mostly, and they represented four hundred and some thousand dollars of stock. I wrote to all these shareholders and asked them - told them what the situation was and asked them to assist me in having an investigation that would cause the parent company or the controlling company to put back into the treasury of the Maple Leaf Oil & Refining Company the moneys that they had taken away

from them, illegally in my estimation. It later turned out it was true. I received $25.00, I think, so I had to fight alone. Well now, after an investigation, the directors of the controlling company agreed to return to the company, to the Maple Leaf Oil & Refining Company, notes and other securities to the extent of $750,000.00. In other words, in the accounting it was found they had made mistakes and they had just taken $750,000.00 more than was coming to them. It was also disclosed - that is where I learned a lot of the technique of the bigger companies in securing control of these - it was also disclosed that the pipe line was profitable so they just naturally took it out of the company. Anything that was not profitable it went into the company's expenses. Now the result was that after this investigation and accounting I insisted that the parent company ratify the decision and the minutes of the Board of Directors of the Maple Leaf Oil & Refining Company, because I realized at that time the minute I was gone all they would do was to ignore the decisions of the board, being that the controlling company in Minneapolis controlled the Board and it would mean that there was nothing to the whole procedure. So I insisted at that time that the parent company or the controlling company in Minneapolis agree or approve of these minutes. It developed during the meeting that one of the banking representatives in Minneapolis - I do not recall what bank it was - called me aside and he said "Well now, this is nothing to you. Why should you fight

us so hard if we pay you 100 cents on the dollar, will you be satisfied?". Well I did not make any decision. I came to see Mr. Frawley and I put the position up to you and you gave me your advice at the time. It developed I went back and insisted that in spite of the fact that they gave me my money in full that they should ratify the minutes and cause the money to be paid back to the Maple Leaf so that the shareholders would get back their money in full. Well after a lot of intrigue and chicanery I finally did get my money, but it had to come through 25 hands all over the United States so that it could not be traced, and so forth and so on. After three or four months I finally got my money in full, and the Maple Leaf Company they apparently never did receive this money because the shareholders were finally paid off, after several years, at the rate of 10 cents on the dollar. That is the story.

Q All right, thank you.

Q DR. BOATRIGHT: Mr. Plotkins, when you were testifying yesterday afternoon the following question was asked. "Q. Now I do not intend, certainly at this stage, to ask you anything about the general comments here, with just one exception, because there may be a time and place if it is considered necessary at all, to question you about the other matters covered in your brief, but I do want to ask you this, have you got any good reason for saying that the Chairman of the Conservation Board is, or the firm of which he is a member, the engineering firm of which he is a member, is under the domination and control of the Standard Oil

Company of New Jersey," and your answer was "I will answer that question in this way, I do not think you people should be quite so concerned about the statements I have made, if you take into consideration the fact that the American Government some years ago investigated the activities of Standard Oil, and at that time was found that the very facts that I am......

Q Look, Mr. Plotkins.....

A The features which I am now bringing forth took place."

Q Then you were asked this question by Mr.Frawley, "Q. Mr. Plotkins, did any American Investigating Committee find that Mr. J. F. Knode, or the firm of Parker,Knode,Foran and Boatright were in any way under the domination or control of Standard Oil of New Jersey?". Your answer was "No, they did not. Possibly they did not exist at that time as a firm, but similar firms existed." You are undoubtedly familiar with the result of that investigation?

A To some extent. I am familiar with the final result.

Q Do you know of any single engineering firm that was even mentioned in that investigation, American or otherwise? Do you know of any single individual engineering firm that was mentioned in that investigstion?

A No, I do not know of any by name.

Q Do you know of any of the conclusions that were brought out as a result of that investigation, any of them?

A No.

Q You just know there was an investigation?

A I know there was an investigation.

Q You do not know whether any engineering firms were involved

in that investigation at all?

A Yes, I am sure of that.

Q What were they?

A I cannot give you the names.

Q As a matter of fact you do not know whether there were or not?

A Yes, I do. I am basing my opinion on what I have read and because I assume so.

Q You have no means of knowing whether what you read was correct or not do you?

A Well I assumed that it was, at any rate.

Q Where did you read it?

A In various books.

Q What books?

A In one amongst others "God's Gold".

Q Is that a technical Journal or an authentic compilation or is that a story book?

A It is an authentic compilation of the activities of Standard Oil.

Q It is a story though, is it not?

A Well, it is naturally a narrative.

Q It is written in fictional style?

A Not necessarily fictional style, it gives the facts or purports to give facts.

Q If it gives facts it undoubtedly gave the conclusion or the result of that Investigation?

A It gave come conclusions.

Q What were they?

A I do not recall the details. The conclusions were substantially......

Q You do not know whether then, whether there were any

facts brought out in that investigation. That is just your impression, a vague impression you have got from reading that story book?

A It is not a vague impression. Knowing the business I know that any company such as the Standard Oil could not carry on without the assistance of technical advisers.

Q You do not know of a single firm of engineers or a single man that was involved in that investigation?

A Not the person.

Q You do not even know their names?

A No.

Q Do you know where the investigation took place?

A No.

Q Do you know what year the investigation was?

A No, I do not know that.

Q All you have is this general statement to make about it, is that correct?

A No, I have more.

Q From just a fictional story book. Well, what are some of the facts? Give us one of the facts?

A I am not in a position to give you any facts.

Q In fact you do not know any of the facts do you?

A In relation to what.

Q In relation to this thing we are talking about right now?

A What are we talking about?

A You are giving us a general statement. You are referring to the investigation of the Standard Oil Company, are you not, in that statement?

A Yes.

Q That is what we are talking about.

A I was not only referring to the investigation but I was referring to knowledge that I have gained in the last few months, in fact since the.....

Q You did intend to refer to the investigation here then?

A That is part of my general knowledge, certainly. Also I have further knowledge.

Q Please answer this question. Is it upon your knowledge and investigation or is this just your general opinion?

A You will recall I gave that answer asking the Commission not to get offended because I had made some statements, or I had asked questions, and that was one of the reasons I stated why they should not get offended. They had nothing to do with the question I put, or at least it only had something partly to do with it.

Q Insofar as that question is concerned this investigation had no bearing on that subject?

A No, not directly.

Q In other words, you did not intend that this statement that you made concerning this investigation should have any support as far as your question was concerned given in your brief, is that correct?

A Only indirectly.

Q Indirectly how?

A Indirectly I said it had happened before and it could happen again.

Q You are putting it in the realm of possibilities, is that correct?

A Yes, that is right.

Q Then you had no knowledge of your own at all in regard to this Standard Oil investigation upon which you could base any such question, is that correct?

A Yes, I had.

Q As a matter of fact are you familiar with the organization of the Standard Oil Company?

A No.

Q Do you know where the Standard Oil of New Jersey's offices are?

A No, I do not. I know the address in the book. I have never been there.

Q Do you know anything about the directorate?

A No, only in a general way.

Q Do you know any men that are in the company?

A No, not the names.

Q Are you familiar with any of its subsidiaries?

A Well I will bring you a list of those subsidiaries. I think there is 1700 of them.

Q I know, these lists are published.

A And there is something else I want to bring to the attention of the Commission at this stage, and that is the list published is not a complete list. The American Government, State Department, permit the Standard Oil of New Jersey and other Standard Oil companies not to disclose all the firms which they own or control. You know that.

Q Under what American statute is that statement made?

A All I am saying is that the National Petroleum News published a list of the subsidiary companies and made that remark or statement in that edition, and that is all I know.

Q Do you have a copy of that?

A I will find a copy and bring it to the Commission because I think it is quite relevant.

Q How long will it take you to find it?

A Possibly today. We have it in our list of books.

Q Do you know what date that was published?

A I think it was last year.

Q Have you any idea of the month?

A No.

Q Then as a matter of fact you are making a statement based on something you read and you do not know whether it was accurate or not?

A I am judging it according to the same idea of reasoning and logic that I use in my own business.

Q That is different. You are basing it on reading matter and you do not know whether it was authentic or not?

A Partly.

Q As a matter of fact, coming back to this Standard Oil Company of New Jersey you have no knowledge right now as far as basing this statement with which you are concerned, you do not know what the subsidiary companies of the Standard Oil Company of New Jersey are, you do not know anything about the Company's operations or policy or anything of that sort do you?

A Only insofar as they affect me, I do.

Q But as a matter of fact you have no actual reason for making any statements concerning the Standard Oil Company of New Jersey?

A Yes, I have.

Q What are they?

A At the present time it would be impossible for me to give you these facts for this reason, that they are going to tie in with the refining and production and other points and phases of the industry, and we are not dealing with them at this stage.

Q I am asking you at this stage if you have any facts?

A I have.

Q And you are going to give those at a later date like the rest of this information you are going to give at a later date?

A Yes.

Q You really are going to have your hands full.

A I realize that.

Q What is the firm, the name of the firm of which I am a member?

A I do not know the name.

Q Do you know what part of Texas our offices are in?

A No, I do not.

Q Do you know anything about our organization?

A I know nothing except what I have learned through Mr. Knode's speeches and remarks and soforth.

Q At any time has any information come to you of any kind that we were associated in any way with the Standard Oil Company of New Jersey?

A Well the information I have leads me to believe that.

Q Answer my question now?

A That is the answer.

Q Have you of your own knowledge at any time had any indication we were employed in any way or affiliated in any way with the Standard Oil Company of New Jersey?

A No, not directly.

Q All right, then. Your statement then concering us was only upon opinion?

A Oh no, it is based more on reason.

Q That is different. You know nothing about the firm?

A No, I do not know anything about the firm in Texas. I know something about Mr. Knode. I know something about his actions here.

Q Do you have any information whether he is in any way affiliated with the Standard Oil Company of New Jersey?

A I am not saying that he is. I do not know.

Q And your statement of our company being affiliated with the Standard Oil Company of New Jersey was only a figment of your imagination?

A I propounded a question and I am asking the Commission to investigate it, and I am going to give them all the information I have. It is for them to decide.

Q You have a habit of making innuendoes that carry lots of implications, and I am trying to clear up this particular innuendo, which is purely a figment of your imagination, based upon no fact whatever.

A Well that is your opinion and you are entitled to it.

Q Do you know anything about this firm or its workings or its policies?

A No.

Q Then your statement was based on nothing but a figment of your imagination, is that correct?

A No.

Q All right, what was it based on?

A Well I have given you that before.

Q Answer it again?

A From certain information which came to my attention which led me to come to that conclusion.

Q What knowledge?

A Knowledge of the actions of Mr. Knode.

Q Name them?

A I am not naming them.

Q THE CHAIRMAN: Why not?

A As I said before at this stage why should I.

Q Why this question at this stage then? In the brief you presented at this stage?

A Well I dealt with the general situation in the preamble to the pipe line phase, and I thought it was proper at that time.

Q Still you put this question here because of certain actions of Mr. Knode of which you desire to speak later. Do I get you aright?

A I was right in what?

Q I say do I understand you aright? Am I understanding you correctly when you say the reason for putting this question in the brief which you present to this Commission at this time is based upon certain actions of Mr. Knode?

A Yes.

Q Which you think it might be detrimental to this investigation to specify now?

A Yes. Not detrimental to this investigation, but detrimental to my own interests.

MR. NOLAN: And what about our interests.

Q THE CHAIRMAN: Now let us get this clear. I would like to get very clear your reasons for refusing to answer. Are you coming up here and making the statements that you have with the idea that you will not subject yourself to cross-examination about it at any time?

A Oh no, not at any time.

Q When you go into that box you are on your oath. Do not be thinking about your interests, but you think about the truth.

A That is quite clear, my Lord.

Q And you will submit to any cross-examination in respect of any observations you make, or any innuendoes you put forward.

A Well, your Lordship, innuendoes, that is, your opinion. After all I have made......

Q You say you have an opinion?

A Yes.

Q Then you will give the reasons for forming that opinion?

A Well I have given them as good as I can.

Q You say that you propose deferring stating why. You do not now desire to mention the actions of Mr. Knode upon which you are relying for that opinion, am I right?

A Yes, you understand me quite correctly.

Q You say the reason for that delay is that you think it might affect further investigations you are making, which you propose to put before this Commission?

A That is it exactly.

I want to make it quite clear to you and a very clear indeed that you will not refuse to answer proper questions put to you before this Commission. We will allow you to defer it but nothing more, is that clear?

A That is absolutely clear. I quite realize my position, your Lordship.

Q Very good.

A I am 44 and I have been through the world. I have

served in the Army and I quite realize what I am doing.

Q You will be treated like any other witness?

A I am not asking for any favours.

Q And you will get as fair treatment as any other withess.

A Thanks very much. That is all I ask.

THE CHAIRMAN: I will let him defer his answers to these questions for the reasons he gives.

Q DR. BOATRIGHT: Now, Mr. Plotkins, going on with this statement which you made yesterday, this is a question asked by Mr.Frawley. "Q. What I want to know is that why, because they found some engineering firms in the petroleum industry were dominated by the Standard Oil Company of New Jersey, that you make the statement in this brief, or ask the question, that this firm with which Mr. Knode is connected is also dominated by the Standard Oil Company of New Jersey?" Your answer was "A. No, no. That is not the main reason why I say that. It is obvious, on the development , to my knowledge, during the last few months, when the time comes, when the Commission finally deals with the conclusions, that is the proper time for me to show the relationship between the different activities of the industry and why conditions exist as they exist today." Now right in there you deny it is because of Mr. Knode's actions that you made that statement, and here you just got through saying it is because of them. Now which is correct?

A I do not quite get your question.

Q All right. Here you see you are asked whether it is

L.D. Plotkins.

Mr. Knode's actions that caused you to form that opinion and you say "no, no" and today you come along and say "yes, yes.". Which is it?

A I do not quite get that. Will you read that over again?

Q I will be glad to. "A. No, no, that is not the main reason why I say that.... "?

A No. No. That is not the main reason. The main reason with that qualification.

Q You got through telling me that was the main reason. Now make up your mind.

MR. PATTERSON: No, he did not say it was the main reason.

Q DR. BEATRIGHT: Didn't you tell me you did not have any of your own knowledge so far as the firm's activities were concerned, and you did not have any right to make that statement. You were making the statement because of some actions of Mr. Knode?

A Partly, yes.

Q Partly? What else? What else are you basing it on?

A Some general knowledge of the business. If I want to create a condition I bring about certain facts.

Q What are those facts?

A I create them.

Q Let us get down to the problem we are considering right here just now, dealing with those facts. What are those facts dealing with Mr. Knode?

THE CHAIRMAN: And relating to this firm?

Q DR. BEATRIGHT: Yes, relating to this firm?

A We have a problem, at least the Royalite and the Imperial and Standard Oil of New Jersey have a problem in Turner Valley. The problem is age old, controlling production. In order to predicate Government Legislation to start with we have got to find some reasonable basis and in this case the reasonable basis is the waste of gas. As everybody knows there is a waste of gas. The Government is concerned with bringing about legislation that will effectively control gas and the waste of it, and then when that is done it is found it is necessary to control gas, not only to prevent its waste and burning in flares, but also to prevent the loss of recovery in the crude oil end of the field. So we have another basis convenient for legislation or bringing about conditions that will give us authority to control the production of crude oil. Well now, at that stage we have to have some experts. The average man is not familiar with these problems and we know that experts, like any other profession, if one man's opinion is this, the other man's opinion may be different, and the result there is always two experts on both sides of the fence, differing in opinion, with the result it is a question of judgment as to what should be done in Turner Valley in connection with the preventing of waste gas and preventing inefficient production methods of crude. Now the Royalite and its parent companies are not concerned with waste, except as it may affect their future operations. Primarily they are interested in controlling the situation, because if they do not control

the situation they won't benefit from any future savings, or any savings of the present to be sold or applied in the future. Then at that stage we have a Conservation Board. Mr. Knode comes on the scene, and a new factor is introduced, pro-ration to market. Now pro-ration to market would be justified under certain conditions, but is it a pure coincidence that is exactly what the Imperial and the Royalite were trying to bring about on their own, through their own efforts. I say no. Someone has sold the Board to that idea. The Board in itself, Mr. Knode in himself is not a competent marketer or refiner. He is not in a position to intelligently make any statements or opinions in that phase of it, and to my knowledge he has never consulted any outside experts. In other words, he has never consulted any experts in that line that were hired by the Government.

Q You mean by that he did not consult you?

A I am not claiming to be any expert. He went ahead, or the Board did, and we find one morning that we are supposed to pro-rate to market. No one in the Government at that time took any pains to find out what it meant, or what was going to be the logical result of that policy. But we do find Mr. Knode in front of the House fighting with all the means at his disposal to impose that particular pro-ration to market, giving us what, in his opinion, were valid reasons. Well now, if the effect of all that is to bring about a condition where we are, the indeoendents in the field and in the business are dispossessed, I say there must be something wrong. I came to that conclusion. So

that is another thing that caused me to investigate or to ask various people something about Mr. Knode. He made a remark in the House - I thought a disparaging remark about the ability and integrity of a firm, or some firm, I do not even know the firm.

Q You do not know what the statement was do you?

A Well I can give it to you in the minutes.

Q Well do so.

A Well bring the minutes.....

Q Is this for the future too?

A No, I have it now. The Government was good enough to send me a copy of it.

Q Well let us have it?

A I will bring it this afternoon. I do not have it with me now.

Q You are making a lot of broad statements about the Royalite operations. Do you know anything about....

A Wait a minute and let me finish. I will finish my story. Mr. Knode made the statement that this particular salesman was attempting to sell some re-pressuring machinery to the Board.....

Q What company was that?

A I think it was the Clark Company, I am not concerned. I do not know the firm. All I know it caused me to think when he made that statement, and it occurred to me I knew that this firm was a large firm.

Q What firm?

A This particular firm which sells the machinery.

Q You do not know the name?

A I do not remember the name. I investigated it. I look into a thing and forget about it. I found that

it was true that the salesman who was, by the way, an engineer, as is customary with this type of firm, and they made certain statements and in my own mind knowing the workings of that kind of firm, something about his whole organization, So it immediately led me to think, knowing what had occurred in the Maple Leaf Oil & Refining Company organization, I began to feel that there might be a question of commission, when a million and a quarter dollars worth of machinery is involved, so I was told there was a member of your firm that was a re-pressuring expert.

Q Who told you that?

A My American acquaintances.

Q Who?

A I am telling you what I told the Commission yesterday in the course of my ~~work~~ I meet quite a number of American citizens in the oil business -

(Go to Page 3385).

[illegible]

Q You realize, of course, a man of your intelligence, you realize, of course, that when you make these wild and unsupported statements, that are very serious statements, that you should be in a position to back them up?
A No, sir, I am just......
Q You are making a statement here concerning the integrity of an engineering firm?
A I am not concerned with the integrity.
Q What was your statement about commissions?
A Wait a minute until I finish and then you can question all you like; knowing what had taken place in the Maple Leaf organization and knowing it was a question of two hundred and fifty or three hundred thousand dollars commissions involved I, as I said before, happened in the last three or four months, the time which has elapsed since this House hearing, I asked questions of various people I met and I learned that in your firm, I am not making any accusations, I am stating logical conclusions of what took place in my own mind.
Q That is, you are making your conclusions?
A I am making my own conclusions.
Q And not exactly......
A It is all imagination, I will admit this, all that I am stating now.
Q Then we will drop the subject?
A It is all imagination in my mind, but at this stage.....
Q All right, that is good enough. Now, you made some statement about Royalite.....
A Wait a minute until I finish, let me finish the question.
Q I don't think we are interested in imagination?
A I think the Commission is.

Q THE CHAIRMAN: Go on, whether we are or not.

A Maybe you are or are not.

Q All I am saying is finish your answer whether we are or not.

A The facts then led me to ask more questions and finally come to the conclusion, no one told me anything, it was just a series of related instances that made me think, made me believe that possibly it was, that the action of Mr. Knode was not entirely altruistic, nothing critical about that.

Q DR. BOATRIGHT: Just let us go back into these things, these innuendoes are bad and I want to point out right now to you, what you mean, what do you mean when you say Mr. Knode's intentions are not altruistic, let us find out what you mean by that?

A Well, I mean if a man of the intelligence and ability and knowledge of Mr. Knode insofar as production is concerned makes a statement that a certain firm is no good or a certain man is no good, and that was the general, my general understanding of what he said, there must be more to it. Knowing, that is when I know, and I have investigated and akked other men that are also in other, in the business, what about this particular firm, "Are they any good?" "Yes," he said, they are one of the biggest firms in the business. They are not likely to send a man up here that is not backed by the entire resources of their institution, I know that I would not send a man out......

Q Is that not a true statement, it was a big firm?

A Yes, it was a big firm.

Q All right?

A So that led me, naturally, to think , and it is the result of logical thinking and asking questions.....

Q Let us see how logical that thinking was, Mr. Knode said it was a big firm?
A No, he didn't say so. He didn't give us any information about a big firm. He just told us this man didn't know what he was talking about.
Q What man?
A This particular salesman, I have never met him.
Q You do not know whether he knew what he was talking about then or not, do you?
A Whether he knew what he was talking about?
Q Yes, you do not know whether the salesman knew what he was talking about or not?
A I don't even know what the salesman said.
Q You do not know whether the statement was correct, whatever was said?
A It might have been correct.
Q Is there not a possibility that Mr. Knode was a capable gentleman and that he should know about these things?
A Yes.
Q Would not any statement he would be apt to make, be apt to be correct?
A Yes, if there was no personal interest.
Q And is that the whole thing on which you are basing all these innuendoes?
A Yes. Now, listen, don't let us call them "innuendoes", let us state facts, I am not going to stand for that.
Q All right, what are they?
A All right, in business, business is business and business is a law, the law of a lot of big bussinesses is to get all you can.
Q Is that the law you follow?
A No, I have a conscience to follow, to answer for.

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Q What law do you follow?

A I follow to let the other, to the best of my ability, I follow my conscience, I am an individual, I do not live forever.

Q Now, is that thing which you have just got through telling about, is that the thing on which you base your statement concerning our firm ?

A Oh, that is one of the things.

Q All right, let us have another?

A Well, no, I am not in a position at this time to give you any more.

Q That is all you know now?

A That is all I know now, it is not all I know now but it is all I am in a position to give you now.

Q Any more that you have not told?

A Yes, I know certain facts that led me to certain conclusions.

Q Let us pursue those a little further then, the fact that Mr. Knode said about some salesman, and let me get that clear, did he say he, or that the firm, was no good, or did he just state it was no good?

A I am not going to say the words, I will have to look it up, but my understanding......

Q He either said it was or was not a good firm?

A I do not know even if he made any remarks about the firm. He did make some remarks about the salesman and that led me to believe that the salesman of an organization of that type would not come up here and not know what he was doing.

Q Now, you do not know what the statement was though, and you do not know whether it was against the salesman or for the salesman?

A Oh, I know it was against the salesman.

Q All right; now, just prior to that, you had left, by innuendoes, the effect in our minds or the assumption in our minds that Mr. Knode would like to tie up with one of these compressor companies?

A No, I didn't leave any such.

Q Do you think it would be possible, can you say, to obtain a commission, after he would knock the compressor company?

A No, I did not make any such statement or make any such inference.

Q Then you do not believe that?

A Believe what?

Q What I have just got through saying?

A No, not that way. I simply said this, that Mr. Knode made certain disparaging remarks about an individual, I don't even know him, and knowing that a million and a half dollars, or a million and a quarter dollars machinery deal was involved, this individual representing a firm, the firm that he represented would not send him up if he did not know what he was talking about, especially when it was published in the trade journal, what was taking place in Turner Valley, and most likely other companies were sending their representatives, and it was, at least it sounded peculiar to me that Mr. Knode should take that stand. In other words, he didn't use very much tact.

Q So far as the Commission is concerned,.......

A No, so far as general opinions of this venture is concerned.

Q You didn't hear Mr. Knode say that?

A Oh, yes, I heard him.

Q Just give us the exact words?

A I don't remember the exact words.

Q Well, what did he say?

A I don't remember, I am just giving you the conclusions of

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what I understood him to say, my own conclusions.

Q You don't remember what he said?

A No, but it is a matter of record.

Q You do not know the company whom he said it about or the company about whom he said it?

A I do not recall.

Q He said it to you?

A Not to me, he said it to the House, in answer to somebody's question.

Q And you heard him say it?

A Yes.

Q Do you mean to tell me that on the floor of the House Mr. Knode made some disparaging remarks about some salesman that sold Compressor or some other oil field equipment?

A To another man it may not seem that way.

Q This is your impression?

A That is what I told you right along, he made the statement.

Q Did he mention the man by name on the floor of the House, or the company by name?

A I do not recall, but I am talking about all that because it is a matter of record.

Q Because this is very serious, and you should realize how serious it is, you made a wild statement here and I just want to see what basis you had for making it?

A Well, I have given you all I know about it.

Q And when it all boils down, it is just your imagination?

A Absolutely.

DR. BOATRIGHT: All right, that is all.

THE CHAIRMAN: Any more questions?

MR. FRAWLEY: That is all.

MAJOR LIPSETT: Mr. Plotkins, I want to get back

to what we are talking about at the moment, and that is the question of the pipeline and the pipeline rate, I gather from what you said that so far as the Turner Valley end of it is concerned, that your company and the Sunburst and the Hylo wells, that you buy from, get at the present time exactly the same service that the wells get which supply the Royalite?

A You mean in service, insofar as transporting the oil?

Q Insofar as gathering and transporting and pro-ratioing

A Well, all, we do get the same service exactly in every respect but one, we do not get the oil delivered to our refinery direct.

Q I want to first of all get the Turner Valley end?

A The Turner Valley end, we get exactly the same service as anybody else.

Q And all the gathering and everything else, the service which is given there is done for the 15¢ rate?

A Yes.

Q And when you come to the Calgary end of it, I understand your complaint is that your oil is not delivered to your refinery for the 15¢, in the same way that it is delivered to the Imperial?

A That is correct.

Q And in your case in addition to the disadvantage, you yourself provide these two tanks, 1500 and 500?

A Well, that is not a disadvantage.

Q No, but you yourself provide those?

A I provide my own storage.

Q Whereas in the case of the Imperial the Royalite provides the tanks for the Imperial there?

A That is correct.

Q Now, I want to get, if I can, clearly, the difference, as I understand it, and correct me if I am not right, the oil, when it first of all goes, when it comes to Calgary it goes direct to the Imperial refinery?

A Yes.

Q And then it goes over a distance of what you describe as about a thousand feet, to the Bell refinery?

A Oh, it is more than a thousand, it is two miles, if I remember right, whatever the figures are, it goes from the Imperial to the Bell refinery.

Q To the Bell refinery, two miles?

A Yes, roughly two miles.

Q Well, is that Bell refinery not the place where you say the oil is all joined up with the Imperial premises, with the Imperial refinery?

A Yes, previously to us taking oil through this line it went to the Regal and to the Bell, and when we were authorized to use that line we just merely connected on to it from this terminus, or at least from a point in the line, to our tanks.

Q Then for the 6¢ rate, there is first of all a pipeline direct, by either Royalite or the Imperial, to the Bell refinery?

A Yes, oh, well, no, there was no movement of crude in that line previous to our connection with it. It was previously transporting the refined product from the Imperial refinery to the Bell refinery. The Regal had discontinued operations at that time.

Q Yes, but there was a pipeline all that way?

A Oh, there was a pipeline in existence and it was being used regularly.

Q And that was the property either of the Royalite or the

Imperial?

A Now, pardon me, I think there are two pipelines, I am not sure whether there are one or two, I went over the line, but it was the property of the Imperial. The reason I say there must be two pipelines, they transport refined products as well as crude and they cannot do it very well in a line as small as that.

Q Then from the Bell on to your refinery you provided the line?

A That is right.

Q You put up the money for it?

A Built it.

Q Built it to the Imperial's specifications?

A That is right.

Q And that line is your property?

A Yes.

Q Your property?

A Yes.

Q And that is a line which you say is about 1500 feet?

A That is correct.

Q So that in order to get the crude oil to your refinery you first of all had to pay the 15¢ rate, plus the 6¢ rate, plus providing a line for the balance of the journey , yourself?

A Yes.

Q Whatever that particular service is worth?

A That is right.

Q On the basis of 6¢ being proper, what would the figure which would correspond with your outlay be, approximately?

A Oh, well, the cost is so small, that it might amount to one-tenth of a cent a barrel, something like that.

Q Very small?

A Very small anyway. The whole investment in the line is very

small compared to the traffic which is going through it.

Q And in order to put you on the same basis then approximately as the, your competitor the Imperial, you would have to get the oil delivered to you at 15¢ at present instead of 21¢?

A 21¢.

Q And even then you would be out the disadvantage that you have provided your own tankage and whatever small outlay there is in this 1500 foot line?

A Well, this line, I would lift up, we could take it up and....

Q If you got a connection?

A And so far as the tanks, I would have to provide them in any event. We need this method of operation, so that is no disadvantage there.

Q Is it your opinion then that the Imperial are in the same position, that they would have to have the tanks which they have out there, at their refinery, which we now know they are getting a rental for?

A That is substantially correct, Mr. Commissioner in other words, in any event, they would need their tanks for their own storage.

Q Just the same as you do?

A Absolutely. Of course, that does not mean the pipeline should not have any storage because there is no doubt......

Q No, but I am trying to get whatever the picture is, the position is that you are providing the storage tankage at your refinery?

A Yes.

Q Well, now, just follow that up, we did hear through Mr. McLeod that you would get some accommodation from the pipeline tankage at the Imperial refinery, that you do get it from time to time?

A But we did get some.

Q That you kept oil stored there for some time, something was said about it, I know?

A Well, the facts are that we received the oil practically simultaneously with its delivery into Calgary and it may be that at times, when it was not convenient for the Imperial Oil, or maybe at times when it was not convenient for us.....

Q Yes?

A To receive the oil for a day or two, but usually the balances were very small, daily balances in the line, so that we did not participate to any extent, to any appreciable extent, in the storage available at the Imperial Oil refinery.

Q Speaking generally, have you sufficient tank storage at your refinery for your refining and other purposes?

A Oh, no, not in the Winter time.

Q Then you do get some service or some accommodation from these Imperial refinery tanks, do you?

A We will, if we are allowed to store; up to now we have not received any appreciable accommodation.

Q Up to now you have not?

A No.

Q Well, you said in giving your evidence, page 3223, I think it was, that "normally under ordinary pipeline tariff, the pipeline company would build it," that is, would build the line to your refinery?

A Yes.

Q "But in this case we offered at the time that we made the demand or the request to pay for that line"?

A Yes.

Q In the ordinary case, to put you on an equality with your competitors, you say that the pipeline company should have

given you that?

A Should provide that line.

Q Provide that extension?

A Yes.

Q At their expense?

A Yes.

Q And included in the rate?

A Included in the rate.

Q Now, there was some conversation with Mr. , between Mr. McLeod and yourself, when he was giving evidence, in which he made some offer to you, or some type of offer, that if there was sufficient through-put, that he would be inclined to consider giving you a connecting pipe?

A Yes, he made that offer.

Q Now, has that been followed up at all?

A I subsequently went to see Mr. McLeod and asked him about it and he said "Well, you make a written application and I will submit it to Toronto", and that is exactly the position we are in to-day.

Q Have you done that?

A Not yet, because I felt that this Commission was going to make a report and set rates, that it would automatically be our privilege or our right to get a direct connection and have the tariff published.

Q In other words, the effect of your proposition, as I see it is that, in considering the rate you should be put on an equality with the Imperial Oil?

A If I am willing and able to pay for it and give me the terms of the tariff.

Q That is what I mean, you either should get a connection to

your refinery or there should be some allowance off your actual rate for not getting that particular service that the Imperial Oil Company gets?

A That is correct. At this stage might I make a relevant observation, in Montana we are allowed, the pipeline allows us 1¢ a barrel for using our power and pumping the oil into the main or into the gathering line. Now, that is a service which we do for the pipeline company and get paid for it.

Q When you say that you get it, the well gets it?

A The well gets it and it might be feasible to look into that phase of it particularly in Turner Valley from the standpoint of the pipeline tariff.

Q Is the cent a barrel what is charged, you mean just for the pumping or is that charge for the use of the gathering lines as well?

A No, we pay a definite rate, 10¢, but we get back credit from the pipeline company of 1¢ a barrel for pumping, because if we do not pump it they would have to do it and probably at a greater expense.

Q Who provides the gathering lines to the well that does the pumping?

A They provide the gathering lines and the pump, and in some cases they do not provide the pump and they make an allowance for the pump.

Q So that, in effect, they provide the lines and the pump and the well does the actual work?

A The well does the actual work and the same thing occurs in Turner Valley. The well does the actual work of pumping into the lateral or into the gathering line.

Q THE CHAIRMAN: What pipeline are you speaking of?

A The International Pipeline and the Illinois Pipeline in Montana, where similar conditions exist.

Q What rate is paid there?

A We pay 10¢ a barrel.

Q Pumped how far?

A Well, in this case it is gathered from anywhere in the Kevin field to Sunburst; it was 12¢ to lay it down into Sweet Grass another eight or nine miles, but that portion of the line, due to the discontinuance of movement to Canada, has been taken up or the service has been discontinued, so we now pay 10¢.

Q Pumped from where to where?

A For gathering from the field.

Q Just for gathering?

A Yes, for gathering and putting it into the Sunburst tank farm and loading, gathering and loading. Now, that rate should, I could give a little information on that, the difference which exists in the Kevin-Sunburst field, the International has its own pipeline, and only publishes the rate to conform with the law. It actually only transports its own oil. The Great West Refinery has its own pipeline and does the same. The Illinois pipeline, which is a Standard Oil of Indiana subsidiary, if I remember right, came into the field originally, before there was any major companies refining. They installed the line and published the tariff for gathering and for delivering to Coutts, and to various other points. Now, the movement has since dwindled to practically nothing with the result that the Illinois Pipeline may be gathering two or three hundred barrels a day and is gradually dismantling and selling its

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plant, so that that tariff of 10¢ for gathering and transporting really does not affect the competitive picture in that field.

Q MAJOR LIPSETT: In Turner Valley the practice is that the wells do all the pumping to the gathering lines?

A Well, so far as the Sunburst is concerned, my information is that we pump, our men, that is the men at the well.......

Q Yes?

A Pump the oil into the gathering lines.

Q Yes, and do you happen to know who provided the pump ?

A Well, in this case the Imperial, that is the Royalite, provided the pump.

Q The Royalite provides the pump and you do the pumping?

A That is correct, with our own gas, that is, we supply the power.

Q Yes?

A And the men.

Q you do not know whether that is the common practice or not, do you?

A Well, I do not know.

Q You only know definitely as to the Sunburst?

A Yes.

Q I just want to make clear what the charge was before you got this extension of the line from the Bell refinery to your plant, before that had you to send your trucks to the Imperial tanks?

A To the Imperial refinery tanks.

Q To the Imperial refinery tanks?

A Yes.

Q And they charged you nothing there for putting the oil in the tanks?

A In the trucks.

Q In the trucks?

A In the truck tanks.

Q Yes?

A No, not that I know of.

Q And you say your cost then for your trucks, either your own or did you hire them?

A Correct.

Q You worked that out at 9¢ a barrel?

A That is correct.

Q THE CHAIRMAN: From where to where?

A From the Imperial refinery to our refinery tanks.

Q 9¢?

A 9¢ plus the cost of unloading and pumping into the tanks, which in the pipeline operations does not exist because it goes naturally into the tanks, but there is a further cost there and a further loss in handling.

Q MAJOR LIPSETT: Then when you put in your, or when you paid for putting in of the pipe from the Bell to your refinery, you eliminated that 9¢ which it cost you by truck?

A Yes, from 6¢.

Q Yes, from 9¢ to 6¢?

A Yes.

Q Which went into the Imperial revenue?

A That is correct, well the Imperial or Royalite.

Q And for that you got, did you get anything more than the pump, plus the pumping, plus the use of the line that was already in existence from their refinery to the Bell?

A Well, I got that service for 6¢.

Q The line up to the Bell was all in existence at that time?

A Was in existence.

Q And did it require, so far as you know, any further cost to

operate that?

A What do you mean?

Q The same staff?

A No, they had to load on trucks and it would be more expensive to load a number of trucks at various intervals than it would be to pump steady so many barrels because the man that looked after that would look after ordinary duties.

Q When you got the trucks loaded, you got that service for nothing?

A We got loading.

Q In the rate?

A Yes, 15¢ including loading our trucks.

Q It was then more than 15¢, of course, you mean the corresponding rate?

A Well, whatever it was, yes, that is right.

Q And now what you get is the oil going through this pipe to the Regal, which was in existence, and plus going through the pipe which you yourself paid for?

A That is correct.

Q THE CHAIRMAN: Do you know what it costs you for truckage from Turner Valley?

A The cost or what we paid?

Q What you pay?

A What we pay is three-quarters of a cent to certain wells and nine-tenths of a cent to others, depending on distance, and one cent to the furthest south well, a gallon.

Q A gallon?

A Yes.

Q And that is how much a barrel?

A It varies between......

Q We are talking a lot about barrels here, and put it into

barrels, if you can?

A It varies from 26¢ to 35¢.

Q Now, when you are speaking of using trucks in the busy season, was it trucking from Turner Valley you were talking about?

A No, our trukks primarily are engaged in transporting refined products from our refinery to our distributing branches.

Q Yes?

A We do not deliver to any stations, that is any service stations, from the refinery. We confine our activities to our own branches and that operation is more vital than the transporting of crude; in other words, rather than do without the crude we will pay a bigger price to get it transported, but when the time comes that our distributing has slowed down and our trucks are not very busy and we can do it ourselves cheaper or at a profit, below the cost of transporting it through the line, then we will immediately proceed to do that.

Q Well, is there ever a time when you can transport by truck at less than 15¢?

A Oh, no, never, not under present conditions, but certainly at less than 21¢.

Q I see, you can at the 21¢, you can transport right from the field with your own trucks at a time when they are not otherwise engaged?

A Correct.

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Q Have you figured out what that cost is of transportation by truck?

A Yes. The costs are relative. If our truck is sitting there and the licence for the year is paid for, our overhead goes on just the same. Normally our trucks cost to operate 5½ cents a mile, 1000 gallons. That is what our cost is over a period of months, properly weighed and analyzed. We have a separate department allocating the costs properly. We found out the costs were roughly a little under 5½ cents. That is the average over all costs. Now that is based on us operating our trucks on an average of 225 days a year - 200 to 225. If we can operate them longer our overhead naturally comes down, and while the cost of going to Turner Valley and bringing it into our tanks actially is, if I remember right, 20 cents, we make a profit by the fact that we have a part of the overhead taken care of, so it is not a scientific calculation. It is a calculation based on certain facts and it is a question of judgment. The fact remained that we can make a profit at it. We also create a condition where the Imperial Oil or the Royalite in time, when they see a big movement of oil by truck, will take cognizance of it and be forced into reducing their rates. Just the same as they create a condition for me where it cost me 21 cents to get a barrel of oil into my refinery I create a condition for them whereby in spite of their high rates, I am able to carry on and make a profit and prosper and they must then find other means of curtailing that competition. Because I do

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not see anything wrong with competition. I do not see anything wrong with the big company or the little company trying to take all the advantages or get all the advantages that they can. I am just merely stating the facts.

Q MR. COMMISSIONER LIPSETT: We would like to find out as much as possible about the pipe line. You did start out by saying there should be no Government interference. At least I think that is what you said. There should be no Government interference but free competition. But is not one of your statements to the effect that in the absence of Government supervision of some sort that the strong companies are able to create so close to a monopoly that they are able to squeeze out the small competitors and possibly control the producing wells?

A That is an actual fact. That is correct under their existing conditions. What I mean by no Government interference - in fact I did not intend to convey that altogether, what I intended to convey was the fact that administering the details of the business is too complex for a Government party or Government bureaus or Government officials or Government Boards. But I do believe that the state has a right to regulate business in its principles. In other words, we have still a law that says you should not steal. You should not take away something that belongs to somebody else. Now if these principles are carried out in the main, the competition will take care of itself. But if in spite of the law conditions are brought about that nullify those principles, well then something should

[illegible]

be done about it and it is the duty of the State to do it. We are not strong enough as individuals.

Q THE CHAIRMAN: You say there should be Government control but not Government ownership, I suppose?

A Not Government ownership and not Government management, I would not say there should be Government control. I believe that the state is in duty bound to regulate. That is different than control. To regulate the conditions.....

Q MR. COMMISSIONER LIPSETT: You mean that they should not themselves run the business but that they should see between two people there should be fair competition and not competition that you would describe as unfair?

A They should see that the laws of the country, which in the main are the Ten Commandments, are applied equally in protecting everyone whether they are little or big.

Q Surely you are not suggesting to us, Mr. Plotkins, whatever the law is,- you say that the law does not go far enough, but surely you are not suggesting that the law, as it is, is not enforced? You must mean something more than that mustn't you?

A Is not in force.

Q Yes, is not enforced?

A It is difficult, I realize the authorities have great difficulty in enforcing some of the laws, because it pre-supposes their knowledge of the business. That is why I say the Government or its employees or its nominees are not in a position to interpret the intricacies of the business. But they are in a

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a position, the Courts are in a position to decide or interpret the Criminal Code and see if conditions exist whereby one Company or one individual is able to take away from another individual, without process of law - that is what I am trying to say.

Q There might be something in your statement, you have strong objections by reason of fact that your oil at your refinery is costing you 21 cents plus something as against 15 cents to the Royalite or Imperial, but surely there is nothing illegal about it at the moment that is criminal or anything like that?

A No, not in itself. In fact the operations of a big company, each division is perfectly legal. It only becomes illegal when a man or a group at the head of all these various companies is using the power that is conferred on him by ownership or control of these companies to accomplish illegal purposes. There is the whole crux of the matter in my estimation.

Q I do not know why you use the word illegal, if you use it in the sense that a lawyer understands it. What you are saying now is that there should be some regulation by the Government to provide equality to all?

A That is correct. Full regulation and not some.

Q Is not that somewhat different to what you were putting up at the start, that there should be free competition? That is what I am trying to get clear in my mind, what your position is?

A Competition has nothing to do with Government regulations which provide everybody with an opportunity to

live without having somebody come and kill them with a gun or otherwise.

Q You do not help yourself by making that sort of what I might call wild statements, Mr. Plotkins. Is not your present condition one of free competition as between you and the Standard Oil of New Jersey group? It may be fierce competition. It may be so strong it is able to put all the weaker competitors to the wall, but it is free competition that you as one thing seemed to be advocating, and on the other hand you come to us and say there should be some regulation to prevent that competition developing to such an extent that you cannot get a livelihood or get your crude oil at the same price that they get it for Imperial?

A Well I would like to put it this way. I am perfectly able to take care of myself under any competitive condition, if the condition is a natural one. In other words, if that is brought about by the workings 6f nature. But what I am trying to say is in this oil business the conditions that exist are not natural. They are brought about through the fact of one organization or more organizations, either alone or by understanding with other organizations, can create conditions that bring about a scarcity or bring about high or low prices, that have the effect of putting me at a disadvantage, because I am not able to combat them in the same manner. There is a position. I realize it is quite difficult for the average laymen to interpret or to understand the intricacies of this business, and how it operates.

But the facts speak for themselves. It is not the fierce competition that puts us out of business. Fierce competition would mean that somebody has a monopoly on brains. No one has a monopoly on brains, One person of average intelligence can combat conditions and make a living against another person of average intelligence. So that that is not what has taken place. What has taken place is that the bigger companies are able to create conditions that are contrary to the laws of the country.

Q In what way? When you talk about that, in what way can you say it is contrary to the laws of the country, that the Royalite build a pipe line from Turner Valley to Calgary, or gathering lines in Turner Valley, or for the Imperial Oil to build itself a refinery in Calgary? Surely you are going away wide of what is reasonable aren't you, when you talk about that being criminal or illegal?

A The building of a refinery or building pipe lines or building service stations, physical things in themselves, certainly are not illegal, to build them or operate them.

Q Is it not fair if they build them they should get the advantage of that foresight or that ability?

A Absolutely.

Q And a reasonable price or a reasonable return on their money?

A Now that is a question.

Q For the benefit of their foresight and everything like that?

A That would be true if the price is reasonable and if

they are actually only benefiting to the extent of their wide investments and their foresight and so forth. I am maintaining that is not the situation.

Q Is not what you really want here that you should get from the Royalite Company, as a pipe line department, the same treatment as any other competitor?

A Well when you take the pipe line in itself it is a different thing than a refinery or a service station. I am perfectly free and able to go and build another service station across the road or to build another refinery. But when it comes to a pipe lines the State, or the Province in this case, may question the propriety and say "No, we have given a franchise to the Royalite, because we find that if all the crude that is produced is grouped for transportation purposes that it will cause less waste in the system, and cheaper transportation, and therefore we are not going to allow you to build a pipe line, but you can and will participate in that advantage." Now there is the position.

Q Is not your whole case then on this point - I am not touching anything else for the moment - by having given this franchise to the Royalite Company as you describe it, that that entails now an equitable right or the same sort of claim for everybody to get the same treatment, equality of treatment by the pipe line department?

A That is correct, Sir.

Q You think that that again means that you should get crude oil delivered to your refinery at exactly the same cost as it costs the Imperial?

A If conditions are substantially the same, yes.

Q In your opinion, is the amount of oil that you take each day in your refinery, is that sufficient to justify them in incurring the cost - I put that first - to justify the Royalite in incurring a capital outlay of connecting say for instance their pipe line with your refinery?

A Yes. For these reasons. We have been established seven or eight years in the present site, and we are not likely to go out of business overnight. The volume is considerably more than a similar pipeline in the United States for this as a minimum, and conditions are such that our takings will be in ratio with the Imperial Oil or any other refinery.

THE CHAIRMAN: Any more questions?

MR. NOLAN: I must ask Mr. Plotkins one question, Sir, because I was not following very well what he was saying. Do I understand, Mr. Plotkins, you were speaking of the Illinois Pipe Line Company in Montana?

A Yes, at one time.

Q And is that the Pipe Line Company that charged 10 cents for its trunk line transportation?

A Well it is not trunk line actually in our case.

THE CHAIRMAN: What is the name of the Company?

Q MR. NOLAN: What was it, the Illinois Pipe Line?

A The Illinois Pipe Line Company.

Q You said you had done business with a pipe line company

in Montana?

A Yes,

Q Which was the Illinois Pipe Line Company?

A Yes.

Q Did the producer there pump it and provide the gathering system?

A No. I am the producer in that case. I provide the labour and the power to pump.

Q Who provided the pump?

A In this case the company did for a while and we did later on.

Q Who provided the gathering system?

A The pipe line company.

Q And was there just the one charge?

A The one charge, yes, 10 cents.

Q And was that 10 cents?

A Yes.

Q For the whole operation?

A For the whole operation.

Q What year was that?

A Well, we are doing it right along.

Q THE CHAIRMAN: What was the operation? As I understood it it was just gathering into the yard tank?

A The conditions in Kevin or in the Sunburst field are different than in the Turner Valley field, Mr. Chairman. In the Turner Valley field you have the field and the refineries are 45 miles or 55 miles away. In Kevin-Sunburst the refineries are right in the field.

Q MR.NOLAN: Oh yes, now I see. And the charge was a gathering charge, Mr. Plotkins?

A Well it was, practically.

Q There is no main trunk line there at all?

A There is a trunk line and the rate was the same. It is hard to understand. The fact remains until a few months ago a big portion of the oil moved to Coutts or to Sweet Grass, on the American side, and the rate to Coutts was 10 cents, and it has never been dropped, now that the trunk lines have been discontinued it is still 10 cents for gathering.

Q The trunk line rate was 10 cents?

A Yes.

Q And the gathering charge?

A Was included.

Q Was 10 cents for those outside and just had it gathered and put in the refinery?

A Well they done it themselves.

Q I did not understand. I thought the gathering charge was 10 cents?

A I will try and explain.

THE CHAIRMAN: They did their own pumping.

Q MR. NOLAN: Did they do their own gathering?

A Yes, the two refineries in that field did their own gathering into the refinery. The Illinois was only the transporter for the Imperial Oil. In fact it is something like the Royalite Company in its relationship.

Q They charged the 10 cents?

A Yes.

Q For doing what?

[illegible]

A At that time for gathering the crude from the producer in the field and delivering it to Sweet Grass at the border. Now they still charge 10 cents for the odd fellow or the odd producer like myself that wants to use the pipe line and they deliver to us at Sunburst at the tank farm.

Q And is there any additional charge for gathering?

A No. That includes everything. Less 1 cent for credit for pumping.

Q One other point. Do you say that you did not participate in the storage at the terminal pipe line?

A Substantially no. Mr. McLeod made the same statement. The figures show that I have one time, we had a few barrels for 7 days, but that is the longest, that is my recollection.

Q You had there on the 1st of December, 1938, according to Exhibit "79", 2790 barrels?

A Now.....

Q Now did you?

A Well wait a moment.

Q Tell me if you did or not. That is all I want to know?

A Yes.

Q You did?

A Yes.

Q And is it not also true that since that time you have not taken any crude through this pipe line?

A Well, I just......

Q That is all I want to say.

Q MR. FRAWLEY: Have you anything to explain about that storage. You had better explain

[illegible]

it, about that 2790 barrels that Mr. Nolan called your attention to?

A Yes, I will explain that because it seems I am at odds with the facts. But at the end of the season when I was faced with the problem of storage, I done something about it. I went to the Imperial Oil and then to the Royalite Oil and started negotiations, at least caused someone in our office to do it - I do not know that I went myself - started negotiations that would have the effect of the Imperial Oil or the Royalite buying our crude at the end of each month, and they subsequently agreed to that. In the meantime crude had accumulated in the tank which was our crude at the end of the month and while it was our crude they paid us for it on the 20th of the month following on the basis agreed upon.

Q That is what you mean?

A Yes.

Q Now let me understand this Illinois Company. I think it will only take a minute. You say it was 10 cents to gather and transport from the field to Sweet Grass?

A That is when the Imperial was operating the Maple Leaf Refinery.

Q Yes, when the Imperial was operating the Maple Leaf Refinery the charge was 10 cents?

A Yes.

Q And for that the gathering was done and transportation by the main trunk line from the field to Coutts?

A Yes, that is my recollection.

Q THE CHAIRMAN: A distance of?

Q MR. FRALEY: A distance of how far?

A From the tank farm it is 9 miles, but from the furthest point in the field it might be 20 miles.

Q At that time as I understand it the oil that was being transported belonged to the company which owned the pipe line company?

A The oil?

Q It was transported to the Maple Leaf Refinery?

A Now I do not know that, I cannot say.

Q In other words you do not know whether there was any transportation of oil for any others than the Maple Leaf Refinery?

A I do not know.

Q In any event you do know that the charge was 10 cents which was the gathering and main line transportation charge?

A And delivering and 30 days' free storage.

Q When the operations ceased, when the Maple Leaf Refinery closed up, the trunk line was not thereafter used?

A It was not used.

Q It is not now used? The trunk line?

A No.

Q Now it is purely, what is left of it, the gathering system?

A That is right.

Q It is the gathering system you make use of?

A That is right.

Q And you say there has never been any change in the rate charged and that they still charge the same rate that they charged at one time for transporting through to Coutts?

A Yes.

Q What they do now is only to gather?

A That is to the best of my knowledge.

Q Any loading charge?

A No. We have loaded by truck and by tank car and loaded every way and they have never made any charge. And as I said it includes 30 days' free storage. By the way the rate of storage does not increase as purported in this new agreement, or at least proposed tariff.

Q We will come to that later, Mr. Plotkins.

Q THE CHAIRMAN: Is that 2700 gallons, Mr. Nolan, is that an average figure or is that at the end of the month?

MR. NOLAN: No, it was just the amount in barrels on hand at that date.

MR. COMMISSIONER LIPSETT: And what were the other previous months?

MR. NOLAN: Well as you see it is only on the first day of the month, and the only other month that shows any in storage was May when there were 2240 barrels. But that does not mean that the Lion was not using the pipe line facilities during the intervening days of the month.

MR. COMMISSIONER LIPSETT: I understand that.

MR. NOLAN: This was just the first of the month's figures, and appeared only in two instances.

MR. COMMISSIONER LIPSETT: That is the position at the checking out?

MR. FRAWLEY: It is an inventory date, that is all.

A But as a matter of fact there could not have been any storage because we were purchasing, over and above what we put into the pipe line.

Q MR. COMMISSIONER LIPSETT: It just happened to be there on that day, or was it stored for some length of time or did it just happen to be there for the day passing through?

A It just happened on that particular day. You will notice the statement shows absolutely no storage for a long period of months, and then in the latter months of the year it shows one figure.

MR. NOLAN: That is right.

A So that the answer is that for 7 or 8 months not only did we have no storage but we purchased crude from them, In other words they delivered to us more crude than we put in the pipe line, so there could not have been any accumulation.

MR. FRAWLEY: Is that cleared up?

MR. COMMISSIONER LIPSETT: Yes.

MR. NOLAN: Before Mr. Plotkins goes, I want to remind him that he is going to come before the Commission with particulars of these companies which have been squeezed out, to use his own expression, by the major companies. I would not like him to forget that we are expecting that evidence?

A All right.

Q DR. BOATRIGHT: As I understood your statement concerning Mr. Knode was based, at least in part, upon an inference which you laid to a statement which he made in Edmonton in appearing

before the Legislature wherein he criticized an engineer for one of the compressor companies, is that right?

A I would not say criticized. He made some remarks, disparaging remarks of the firm's ability.

Q I am reading from this record now?

A All right.

Q "Our expert came up from the States and a very clever man. I know him well, Mr. Pat O'Connor."

A Who is talking now?

Q This is Mr. Knode talking.

A All right.

Q "He is an excellent compression engineer, but his knowledge of production and relation of pressure maintenance to that production is what I would call very scant." Now that is a statement upon which you base the evidence you presented?

A Is that all the statement he made?

Q That is at least one of the statements he made concerning that compressor man.

A I do not think it was the only one statement.

Q You will get those other statements this afternoon and bring them in?

A Well if you have the transcript.

Q I have the transcript here but you know what you had in mind, and what you were talking about? I do not know. I just point out that there at least is one statement that does not coincide with the ideas you had?

A Well let us analyse this statement.

Q All right.

A He said this man was a fine man, absolutely fine. We might all agree he is a fine man.

Q A good compressor man were the words?

A All right. Now he did not believe he had the ability.....

THE CHAIRMAN: During the noon hour, Mr. Plotkins, you will have an opportunity of perhaps going through the record which you say you have, and we will not be speculating as to what he said or on what you are basing your opinion. You will have it exactly. We will continue at 2 o'clock.

(At this stage the Hearing was adjourned until 2 P.M.)

....

LEON L. PLOTKINS, having been recalled, examined by Dr. Boatright said:

Q Mr. Plotkins, you have had an opportunity to go over this testimony of Mr. Knode's to which we were referring this morning and you have those statements before you?

A Yes.

Q Will you give them to us?

A At page 148, "our expert came up from the station, and a very clever man".

MR. FRAWLEY: "from the station"?

A I do not know, that is the transcript anyway, it should be from the States.

Q MR. FRAWLEY: It should be "one expert" instead of "our"?

A Yes.

Q And it should be "the States" instead of "station"?

A Yes.

MR. FRAWLEY: It is not a very accurate transcript I must say.

A And I read it "the expert came up from the States and a very clever man, I know him well, Mr. Pat O'Connor. He is an excellent compression engineer but his knowledge of production and the relationship of pressure maintenance to that production is what I would call very scant. He is not considered an expert on that particular phase of it at all. He came in with the suggestion that they buy some 21,000 horse power in order to take all the gas that anybody could produce and return it to the formation at the pressure existing, and those pressures I think are completely outlined. That problem has not been answered and that is the probelm which is going to face this Board immediately providing you put in an

act or legislate the one that you have got in, that is about all with reference to this particular gentleman, Mr. Pat O'Connor.

Q You knew of course that Mr. Pat O'Connor did not then claim to be a compression maintenance man, he was there simply to tell them what horse power it would take to repressure all the gas from the field, from one field to another, you knew that?

A No, I didn't know that, but I did know that a group of independent producers in Turner Valley had made it their business to investigate the possibilities and the cost to be incurred in repressuring gas back into the formation. I knew that much.

Q But that is beside the point which we are making here and that was your statement, that Mr. Knode had belittled one of the compressor company men and it seems to me that that is a very nice compliment he paid to this compressor company man, the mere fact that he was not a compressor maintenance engineer and did not claim to be one, it could not be considered to be belittling him?

A No, it couldn't be.

Q And any fair minded man reading that statement would say that was no aspersion at all upon the compressor company man, who apparently did know his business and who Mr. Knode knew knew his business, is that not correct?

A No.

Q If you were the compressor company man?

A Yes.

Q And knew compression and did not know compression maintenance, and that statement was made about you, would you not feel quite satisfied?

A No, I would answer that my firm was quite capable of going into the rest of the relationship and if I once knew the problem to put it to my firm, it would work it out.

Q Is there any reference made there to a firm?

A No.

Q Let us forget about this firm then, there is no mention of a firm in there, there was no statement that the people whom Mr. Pat O'Connor was with did not have compressor maintenance men, it was just a statement that this man was not and he did not claim to be, he was simply a compressor equipment salesman, that is all he was up there for and that is all he claimed to be and I know personally if I was a salesman and somebody said that about me,- if I was a compressor maintenance engineer and somebody said of me that I did not know anything about shooting the moon, I would not take any objection to that?

A From the standpoint, from that standpoint you are perfectly right but from that standpoint only, but from the firm's standpoint it would be a different story.

Q You took it on yourself then to put your own interpretation that this referred to the firm, and you make it a general indictment of the firm and that in turn influenced your jumping to the conclusion that therefore Mr. Knode was, could possibly be accused of being associated with one of the Standard Oil companies?

A No, I will tell you why I came to that conclusion, it was based on my experience with engineering firms in the United States refusing to do any engineering work unless they also supplied the equipment, in other words the fee, the engineering fee, did not interest them. What interested them was the

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

profits to be derived from the supplying of the equipment.

Q And what engineering firm have you in mind?

A I have several engineering firms in mind.

Q Name one.

A The Mid-Continent Engineering Company.

Q And where are their offices?

A In Tulsa, no in Dallas and in Chicago.

Q Is that not the Mid-Continent Supply Company and not the Engineering Company?

A No, it is the Mid-Contient Engineering , and then another firm---

Q What branch are they in?

A In the petroleum engineering field.

Q And as a matter of fact they are primarily installation engineers are they not?

A No, they design and sell and contract and in fact do a general engineering service.

Q You are thoroughly familiar with the policies of that company, are you?

A- No, not thoroughly familiar but that particular company was willing to perform the engineering services for the company but other companies that I got in touch with were not interested.

Q This first company you listed, as a matter of fact, did take engineering fees for selling equipment?

A They told me that in view of the fact that we were in Alberta, a long ways from their home office and that the cost of producing in Dallas or in Tulsa was prohibitive after we paid the duty and sales taxes and freight and so forth, that they would consider a flat fee but that they would want to supply

the instruments, supply everything that could be conveniently supplied from the United States.

Q They so that manufacturing themselves, don't they?

A No, not necessarily those.

Q They did do manufacturing themsleves, did they not?

A This particular firm, so far as I know, did not. Other firms that I consulted did and were also in the manufacturing end, somewhere and some were not.

Q You would expect a man who is engaged in the manufacturing end, to be interested in the manufacturing and not purely interested in the engineering alone. Let me ask you this question, do you know of a single consulting engineering firm that is not interested in the manufacture of equipment that refuses to take engineering fees, name one?

A The Parsons Company is one.

Q They do straight engineering work?

A Straight engineering.

Q And how about that company then, will they take engineering work on a straight fee basis?

A They certainly were not interested with us to do it. I do not know what they will do for someone else.

Q In other words they are a straight consulting firm and refused a consulting fee?

A I do not know that they are a consulting firm. They are a straight engineering firm.

Q Let us stay right with this question, do you know of a single straight consulting engineering firm that is not tied up in any way with an equipment company or does not manufacture equipment themselves, that refuses to take engineering fees, or relies upon the equipment company for their fees.

A If they are a straight consulting engineering firm, now that is a qualified statement? I do not know if they claim to be

A that.

Q Do you know if the firm of Parker, Foran, Knode and Beatright was a straight consulting firm?

A No, I do not know.

Q You do not know anything about them?

A No.

Q You were just jumping to conclusions?

A Absolutely.

Q You were not at this meeting where this one statement was made?

A Yes, I was present.

Q And you were there at the time when the meeting started when Mr. Tanner made the following statements, this is on page 3?

A Yes.

Q "MR. TANNER: Mr. Chairman, just to tell you what the witness has already said, to let you know how we obtained the services of Mr. Knode. We realized it was important to get a man not in any way connected with major companies or industry companies in Canada or any other place. We also wanted to get a man who had had some experience with conservation and one who had the backing of it. Then we could get the recommendation to those who knew something regarding it and we asked the United States Bureau of Mines to recommend someone who would be suitable for this work and they recommended Barker, Knode and Blank".

There is a confusion in the names.

"Who were working in Texas andhad had a great amount to do with the conservation and, after sight chose this particular man, Mr. Knode. We wired again the Bureau of Mines to see if they would recommend him as an individual capable of handling this work. They did, and we were able to get him and felt that we had someone who had nothing to sell or to project so far as this field was concerned, and had no connections with any place in the field, either with the major companies or the industries". Now do you set your opinion above that of the United States Bureau of Mines?

A Beg your pardon?

Q Do you set your opinion?

A Above.

Q Based upon the information which you have described so far, above that of the United States Bureau of Mines, which is thoroughly familiar with our work in the United States?

A I do not know what their view is.

Q Mr. Tanner has given you it?

A They may have a good opinion as to you but whether they are prepared to answer whether there is an influence there---

Q Don't you think the United States Bureau of Mines would be in a much better position to find that out than you are up here, jumping to a conclusion?

A I do not know why they would care.

Q That was the very point they were requested to find out, that was the very thing that Mr. Tanner was interested in, because Mr. Tanner made that statement and you knew it?

A Yes, I heard the statement made, there is no doubt about that.

DR. BOATRIGHT: That is all.

THE CHAIRMAN: Any more?

MR. FRAWLEY: That is all.

WITNESS: Now in reading it over, just glancing through it at the noon hour I noticed a few things there which I think should be brought to the attention of the Commission.

MR. FRAWLEY: You were asked, Mr. Plotkins, to find the parts of the transcript of the evidence in Edmonton which supported the inferences you were endeavouring to draw. The only thing we were concerned with this morning was this expression upon the repressuring matter, and you said you wanted to find something else. I understand you to say you cannot find anything else?

A No, I understood this morning that the Commission charged me with a duty and a responsibility of proving this and proving that, the statements which I made.

Q THE CHAIRMAN: No, we are not charging you with the responsibility of proving anything but when you assert that something is your opinion, it is your duty to give us reasons for giving that opinion?

A Yes, that is true and that is what I was going to get from this.

Q We are not asking you to prove anything but if you make an assertion something is in your opinion so, you must give us reasons, otherwise your opinion is wholly without value, that is all.

MR. FRAWLEY: All right, I will call Dr. Boatright.

DR. BYRON B. BOATRIGHT, having been recalled, examined by Mr. Frawley said:

Q Dr. Boatright, you are still under oath?

A Yes.

Q We had a question put to us yesterday in the written submission of the witness Plotkins, and I think I can do no better than to put the question to you, "is the engineering firm which employs Dr. Boatright and Mr. Knode, Chairman of the Conservation Board, also in the same category", which means, reading back a few lines, the category is a part of the Standard Oil system of engineering appraisal legal and management firms owned jointly or individually by Standard Oil Company, can you answer that question?

A Yes, unequivocably no, we have no connection of any kind with any Standard Oil Company.

Q The firm you are a member of what is what firm?

A The firm of Parker, Foran, Knode and Boatright, with offices in Houston, Austin, and Corpus Christi, Texas. We maintain independent consulting offices and specialize directly in petroleum and natural gas engineering work.

Q Yes. Now do you know, something which you have just brought to the witness attention yourself, do you know that Mr. Knode was sent here to become Chairman of the Conservation Board upon the recommendation of the United States Bureau of Mines?

A Yes I do.

Q You subscribe to what Mr. Tanner put to the House in Edmonton as to the, as to what you understand to be the reasons why he desired to have an unbiased opinion of the United States Bureau of Mines?

A Yes.

Q In any event you say unequivocably that your firm has no connection of any kind with any Standard Oil company, with any one of the Standard Oil companies of the United States?

A That is correct. Our only possible connection with them in

any way shape or form would as consultants upon a particular problem which might happen to come in to us just as any other firm would come in and request our consulting services. We have no direct or indirect connection of any kind with any of the Standard Companies.

Q THE CHAIRMAN: You say with any of the Standard Companies, you are including their subsidiaries?

A Or subsidiaries, yes.

MR. FRAWLEY: Thank you.

THE CHAIRMAN: Any questions, Mr. Patterson?

MR. PATTERSON: No.

PETER L. HYDE, having been first duly sworn, examined by Mr. Frawley said:

Q Mr. Hyde, what is your business?

A An independent oil distributor, sir, and refiner.

Q And you operate and have operated a plant at Red Deer?

A Yes.

Q You yourself personally live and have your business offices in Calgary?

A Yes.

Q Did you find it necessary in the month of January of this year, this very month, no a year ago, in the month of January 1938, to obtain a supply of crude oil?

A Well I was not exactly ready for it, sir, but I was making plans for to get a supply of crude oil.

Q THE CHAIRMAN: I did not catch the time.

Q MR. FRAWLEY: The time was in the month of January, 1938, a year ago, and is that a copy of a letter which you wrote to the Imperial Oil Company at that time?

A Yes.

MR. FRAWLEY: Mr. Nolan, I will not trouble you to

produce the original, you have seen the copy and that is the copy.

MR. NOLAN: Yes.

Q MR. FRAWLEY: I will read it sir and then offer it as an Exhibit.

Q MR. FRAWLEY: "815B, Centre Street" that is in Calgary is it?

A Yes.

Q (Mr. Frawley here reads letter which is afterwards marked as Exhibit "124").

(LETTTER PRODUCED HERE MARKED AS EXHIBIT "124).

Q And that letter was from you, was it?

A Yes, I signed it, Mr. Frawley, that would be signed by Hydro-Pete Oils.

Q It would be Hydro-Pete Oils?

A Limited.

Q That is your company, the Hydro-Pete Oils Limited?

A Yes.

Q Mr. Hyde, did you receive a reply from the Imperial Oil Company or any subsidiary or associated companies?

A I have never received a reply to that letter, sir.

Q Did you have any further communication of any kind with any of the officials of the Imperial or associated company.

THE CHAIRMAN: It is addressed to whom?

MR. FRAWLEY: To the Imperial Oil Company Limited, sir.

A Well I phoned my friend, Mr. McLeod.

Q You phoned Mr. John McLeod, the manager of Royalite?

A Yes, and I phoned him twice as a matter of fact and he said that he could not reply to this letter but he had referred it

to his people in the East.

Q That he had referred it?

A He had, and then I called him up at a later date and he said he had no reply.

Q And that was the end of that negotiation?

A That is all in connection with that.

Q And you never received, you never bought any oil from them at all under any conditions?

A No.

Q Then did you at the same time, this letter is dated the 10th of January, did you on the same date write a letter to the British American Oil Company at Calgary with the same object in view?

A Well I wrote a letter.

Q Will you just look at that letter?

A I think it is the same date.

Q Look at that and see if that is the same?

A Yes, that is the same letter.

Q I mean it is to the British American Oil Company?

A Yes.

Q That is a letter which you wrote on the same date to the British American Oil Company?

A Yes, January 10th, 1938.

(MR. FRAWLEY HERE READS LETTER WHICH IS AFTERWARDS MARKED AS EXHIBIT "125").

Q Was that also signed by Hydro-Pete Oils Limited per yourself?

A Per myself, sir.

Q Did you receive this answer from the British American Oil Company?

A Yes.

(LETTER PRODUCED HERE MARKED AS EXHIBIT "126")

THE CHAIRMAN: What date.

MR. FRAWLEY: the 16th of February,, 1938.

(Mr. Frawley here reads letter Exhibit "126").

And did you acknowledge Mr. Watt's letter with this letter?

A Yes, that is my letter, sir.

(LETTER PRODUCED HERE MARKED AS EXHIBIT "127").

(Mr. Frawley here reads letter Exhibit "127".)

Q That was from Hydro-Pete Oils Limited also?

A Yes.

Q Now did you follow up any arrangement with the British American Oil Company, did you follow that up?

A Well by personal meetings, sir, and discussions on the telephone with various officials of the company. I never purchased any crude from them.

Q You did not purchase any crude from them?

A No.

Q Why, we had better have the reason?

A Well I called them up and asked them first of all what the charges would be, sir, and they said they did not know at the moment just what it would be. It would be a reasonable charge and then the question arose as to, we were going to take away a lot of this in trucks.

Q In tank trucks?

A Yes, in fact we were going to take it all in tank trucks, in 1938.

Q That would be the most convenient for you to handle it at that time?

A Yes, we were a small company you know and we had to go just as we can.

Q And you have a good highway all the way from Calgary to Red Deer?

A A fairly good highway now, sir. We were never able, sir, to make satisfactory arrangements. First of all the hours that we could load at the Imperial Oil were not satisfactory. If we could load at all.

Q Now how did you ascertain that?

A Well I phoned the East Calgary plant of the Imperial Oil on a couple of occasions but I discussed it particularly with Mr. Luders and Mr. Hutton, both good friends of mine.

Q Mr. Luders being an employee of the British American Oils?

A Yes, the manager and whom I know personally and Mr. Hutton.

Q Who is he?

A He is assistant manager.

Q Assistant to Mr. Luders?

A Yes, and Mr. Burke is the sales manager, a good friend of mine, with whom I soldiered Overseas and it was through him that I wrote these letters, he asked me to write them.

Q I am interested now in your conversations with the Imperial Oil officials with regard to the facilities for loading?

A Well they advised me, sir, I do not know who I would be speaking to, I called up the East Plant, whether we could load some crude naphtha and they told me that, I asked them if any arrangements had been made by the B. A. Oil for us to get crude oil delivered to our tank trucks at the East Calgary plant and they said that up to that time there had been no arrangements.

Q Now did you try to buy oil in the Valley at the wells?

A No, not crude oil, sir.

Q Well after, I mean did you make any effort?

A Well I had had previous experience, sir, that I had sent my

trucks down on an occasion for crude naphtha and they had sent the trucks home empty.

Q Who had sent them home empty?

A Well the Royalite.

Q Yes, why?

A They said they were not selling any more naphtha to independent dealers.

Q They said they were not selling---

A Unless we were on their approved list, that is it, sir.

Q How about crude oil, did you make any attempt to purchase crude oil at the well head in the Valley?

A No, I didn't.

Q Do you know, you don't know what condition you would have been met with there with respect to whether the crude was under contract to anyone else?

A I cannot tell you that, sir.

Q Now did you operate the plant at Red Deer last year?

A Yes I did.

Q What kind of crude did you use?

A We bought three different kinds of crude, sir, we bought National Pete No. 1.

Q National Pete No. 1 in the Turner Valley?

A Yes.

Q And you brought that to your plant how?

A By truck, sir.

(Go to No. 3375)

A We bought crude from Mr. Kately at Cutbank.

Q At Cutbank, Montana?

A Yes, sir. Then we bought from Himle & Himle, people north of Kevin.

Q In Montana?

A In Montana, yes.

Q Have you made any attempt for your 1939 operations to buy crude from either the Imperial Oil or the British American?

A No, sir.

Q THE CHAIRMAN: You are still carrying on the business?

A Yes.

Q And buying your oil where?

A National Pete No. 1, sir.

Q MR. FRAWLEY: Where do you take delivery of your National Pete No. 1?

A Right at their well, at the tanks at their well.

Q You pay the field price for it?

A Yes, sir.

Q Any loading charge?

A No, sir.

Q Just the field price?

A Just the field price.

Q And you truck it to Red Deer at your own expense?

A Yes, sir.

Q No deduction of any kind for losses?

A No. We settle on the field price, according to the gravity it is. That is all.

Q That is all, Mr. Hyde.

MR. NOLAN: I have no questions.

Q THE CHAIRMAN: The result of your talk with

this man in the East Calgary yard in the Imperial Oil, or the Royalite, as the case may be, did you get any impression that they did not want to load your trucks?

A I do not think they were very anxious, sir, to have our business. That was just my impression. They did not say so, sir.

Q Did you get the B. A. to follow it up. After all, they were the ones who were going to sell to you?

A They were, sir.

Q Did they make any effort to get you service?

A No, sir. As a matter of fact, shortly after these negotiations were entered into, at least while I was trying to get a supply of crude, I took ill and I was off the job for about six weeks. Up to that time I was communicating regularly with the B. A. officials, our relations were very congenial, but we never could get a supply of crude oil. Anything else we did.

Q Did you get the impression the B. A. did not want to sell or that they were in concert with the Imperial in blocking you?

A No, sir. I never did get that impression. I figured my connection with them in other ways was valuable in the oil business and they were anxious to serve me if they could, sir. I bought a lot of lubricating oil and other stuff from them.

Q What do you think we should take from your evidence, that the Imperial is not anxious to sell to anyone in the refining business?

A Well, sir, I did not come here.....

Q To make inferences?

A I did not come here offering evidence or making inferences.

T3
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Q I think that is fair enough and that you should not be required to.

A I felt that they did not want to deal with me, sir.

Q MR. COMMISSIONER LIPSETT: Did you follow it up a little further with your friends in the British American just to find out whether they had tried to get you the service?

A No, sir. In the meantime I had made arrangements with Mr. Wilkinson of the National Pete No. 1, and he was an independent operator.

Q Have you been able to , through him, to get all the crude oil you have needed since?

A Yes, sir, absolutely.

Q On terms comparable with what it would have cost you if it had come through the pipeline?

A Just about the same, sir.

Q THE CHAIRMAN: You would have to truck it from the pipeline anyway?

A I would have to truck it from the pipeline, yes, and trucking it from the Valley at a rate was just about the same.

Q MR. FRAWLEY: Did you have the situation at any time of buying refined rproducts from the Imperial plant, either through the B.A. or the Imperial?

A Any refined products. I took a lot of casing-head and naphtha from Royalite.

Q Casing-head and naphtha from Royalite?

A Yes, sir. Not in 1938.

Q Earlier than that?

A Yes.

Q Where did you take delivery of that?

A At the Valley. The last time I sent my truck down they

said their policy had changed and unless I was on the approved list I could not get a load and sent my truck home empty.

Q You never took delivery of anything by truck from the Imperial Oil storage facilities in East Calgary?

A I took some naphtha there too.

Q From the East Calgary plant?

A Yes, sir.

Q By truck?

A By truck.

Q Out of the big storage tank?

A Well, I cannot tell you, sir, what we took it out of. I was never there personally when it was being delivered. But we took delivery of considerable naphtha.

Q You have taken certain tank truck quantities from the Imperial Oil in their East Calgary refinery?

A Yes, in 1935 and possibly 1936. 1935 anyway.

Q MR. COMMISSIONER LIPSETT: When you were getting oil down in Montana, Mr. Hyde, that was last year?

A Yes, sir, 1938.

Q Were you getting some from Turner Valley at the same time?

A Yes, sir.

Q What was the reason you went down to Montana for some. Was it that you could get it on more favourable terms or you could not get a sufficient supply in Turner Valley?

A When we started, sir, it was a question of what amount we might get. It was in their busy season and we did not get our refinery opened till the 15th of June. It was a question of whether or not we could be supplied with a proper amount from Turner Valley. At the same time we had people from Montana offering us crude, which we thought was at favourable prices, and naturally wanted to try out

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these two different kinds of crude from Montana, one from Cutbank and one from North-West of Kevin. The prices appeared low, but with a topping plant the Turner Valley crude, of course, is much superior to any kind of Montana crude that I have ever experimented with.

Q It was not then that there was any hold-up in Turner Valley that you could not get oil in Turner Valley?

A Well, it was not exactly a hold-up.

Q It was a better business deal?

A No. Mr. Wilkinson would not assure us at the time that he could supply us with everything we would need. We really started in his busy season, May and June.

Q Does your supply from Turner Valley, does that depend entirely on the one well?

A Absolutely, sir. We do not buy or cannot buy that I know of from anybody else there.

Q If he ceased to give you oil would you be without a supply from Turner Valley under the present conditions?

A I believe we would. I know of no other place where I could buy crude oil to-day.

Q Your position is, or would then be, you would either have to close down or go down to Montana for it?

A To go down to Montana for the crude oil.

Q Have you any difficulty in getting it in Montana?

A No, sir, they are only too anxious to sell it to you, from sixty cents to eighty cents a barrel.

Q But that is not the position as regards Turner Valley?

A No, sir. I never paid more than eighty cents a barrel in Montana for crude oil.

Q I take it from what you said that it does not give you as good results as the Turner Valley crude?

A Not as much gasoline. It is 40 as compared to 45.5 or

46 that we get here.

Q Now, taking the Turner Valley position, to what do you attribute the fact that you are limited now to what you can get from one well?

A You just want me to express an opinion. I do not know.

Q I was trying to get the picture?

A Well, the picture is....

Q If you do not know it, Mr. Hyde, I do not want it.

A The picture, as I see it is that a National Pete No. 1, are the only people that want to sell me crude.

MR. FRAWLEY: I would like to file a statement, which is headed "List of Turner Valley Oil Wells Classified as to Names of Purchasers of Production Under Contract." The statement was prepared by the Petroleum & Natural Gas Conservation Board.

(Document in question is now marked Exhibit "128".)

MR. FRAWLEY: I would be glad if you would make one notation on the Exhibit, Mr. Chairman, You will see under the name Royalite Oil Company Limited contracts the very first well is Advance 5A. Mr. Nolan tells me that is contracted to the North-West company, which we know to be an Imperial subsidiary, and I, therefore, have not re-written the list. Every other of the wells are correctly described as under contract to the Royalite Company and I think it is only necessary to make the notation that Advance 5A is under contract to the North-West Company, which is, as we know, from the evidence, an Imperial Oil subsidiary. Now, I have totalled, or you might like to total the wells on the first page which are under contract to the Royalite. Including the one, Advance 5A, the total is 39 wells. Then the

[illegible]

... heading "First ... [illegible]

[illegible] ... was ... [illegible]

[illegible] Mr. Chairman, [illegible]

[illegible] ... the very ... [illegible]

[illegible]

next classification are Wells under contract to the British American Oil Company Limited, either under contract or selling the production to the British American without contract, and those total 19. Then the Gas & Oil Products Limited have contracts with two wells, Mercury Royalty 1 and Model-Spooner 2. You will notice the notation, it is not the Gas & Oil Products exactly, but it is an associate company. In fact, it is the U. P. Company, an associate company. Of course, it is the Gas & Oil Products Limited that is actually buying the production from the Mercury and the Model Spooner. But with that slight distinction there they are not under contract to the Gas & Oil Products Limited. Then the last classification under contract is the Lion Oils Limited, which has a contract with Sunburst 1. Then you will see Wells Not Contracted and that is the National 1, the well of which Mr. Hyde has been speaking. So that the situation is that all the wells in the Valley are under contract except the one well, the National Petroleum.

THE CHAIRMAN: I do not recall at the moment, would you mind refreshing my memory, what is the length of these contracts that have been put in, for the life of the well?

MR. NOLAN: Only my contract has been put in and it is all the production from that well during its life.

MR. FRAWLEY: The British American contract is the same.

MR. HARVIE: No, it is not. The contracts themselves vary in some detail but the general principle of

them is it is for the life of the well, with certain provisions in case of over-production and so on.

THE CHAIRMAN: Well, we will have a contract put in, I suppose, Mr. Frawley?

MR. FRAWLEY: Yes.

MR. HARVIE: I shall be glad to produce a copy.

MR. FRAWLEY: That correspondence between Mr. Hyde and the British American Company having come to my notice I wrote a letter to Mr. Harvie on the 23rd of January......

THE CHAIRMAN: These are now the wells that are under contract. Have we thus far a list of the wells from which the Royalite is producing its own or the B. A.?

MR. FRAWLEY: The B. A. is not producing any.

MR. HARVIE: No, sir. It owns no well that produces.

MR. FRAWLEY: If we take the list and with, perhaps, some qualifications we can take all the Royalite wells as......but, perhaps, to be exact about that I should file a list showing that, and ask Mr. Nolan to pick these wells out of the 39 wells classified as to those which his company has under contract as opposed to those which they own. That might be the simplest thing.

THE CHAIRMAN: I did not read through the list. I think you have a number of Royalite here.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Or else has Royalite Company Limited contracts?

MR. FRAWLEY: Yes.

THE CHAIRMAN: These six or seven wells, whatever it is, would not be under contract to themselves?

MR. FRAWLEY: No, that is quite true. The purpose of this Exhibit was to show the extent to which production had been tied up.

THE CHAIRMAN: So it is a list of wells which the Royalite is either producing oil from itself or gets oil from under contract?

MR. FRAWLEY: Yes, quite so. With that explanation I may file a supplementary statement classifying these wells.

THE CHAIRMAN: Oh, no, that is all right.

MR. COMMISSIONER LIPSETT: Does this include all the wells in Turner Valley?

MR. FRAWLEY: All of the oil wells, you understand.

MR. COMMISSIONER LIPSETT: All the wells that are producing oil.

MR. FRAWLEY: Yes. There are what the Conservation Board calls gas wells, producing naphtha, which are not included.

MR. COMMISSIONER LIPSETT: Is this correct, that there are only four wells not under contract either to the Royalite or to the British American?

MR. FRAWLEY: Yes. So far that is correct. There is only one well that is not under contractual or other arrangement with some refinery, you see. On the bottom of page 2 it indicates there is only one well, National 1, that I have described as not contracting. Well, now, in the error that the Chairman has called to my attention we had, perhaps, better say "Wells not contracted or otherwise segregated or otherwise tied up".

THE CHAIRMAN: Oh, we understand.

MR. FRAWLEY:

MR. FRAWLEY: Now, I wrote to Mr. Harvie and said this:

"Court House, Calgary,
January 23rd, 1939.

Dear Mr. Harvie:

I send you herewith copies of correspondence passing between your client and Mr. P. L. Hyde, 815 B. Centre Street, Calgary.

I have been informed that Imperial Oil Limited will not load crude oil into tank trucks at their refinery yard in East Calgary. I should like to know definitely the attitude of your company as to the conditions under which they will sell crude oil to independent refineries from the stocks of crude owned by British American and stored in Imperial tanks at East Calgary refinery. I should also like to know the price at which the crude will be offered to independent refiners desiring to take delivery in tank trucks.

Yours truly,

J. J. FRAWLEY,
Commission Counsel."

Mr. Harvie was good enough to send that on to Toronto and if Mr. Watt were here I would call him but I think it might be sufficient if I file the telegram which Mr. Harvie has handed me from the Vice-President of the British American in Toronto. The telegram, copy of which I would like to file, is dated Toronto, 27th January, addressed to Mr. Harvie, Barrister, Canada Life Building, Calgary.

"Your telegram yesterday stop up to any surplus supply available we may have under proration from time to time

would deliver under terms letter February 15th last plus reasonable overhead stop all crude facilities arranged for pipe line or tank car deliveries stop would not be convenient to load trucks except at extra charge for new facilities with guarantee.

Gaby."

(Document in question is now marked Exhibit "129".)

MR. FRAWLEY: On the same day I wrote Mr. Nolan, sending him a copy of that letter that I had received from Mr. Hyde. I wrote Mr. Nolan as follows:

"Court House, Calgary,
January 23rd, 1939.

Dear Mr. Nolan:

I send you herewith a copy of a communication addressed to your client by P. L. Hyde, 815B Centre Street, Calgary, under date January 10th, 1938.

Mr. Hyde advises me that he has never received any reply from your client although he did have a telephone convesation with Mr. J. H. McLeod and was advised that his, Mr. Hyde's, communication had been forwarded to Toronto for instructions.

Would you please take the matter up with your client and let me know what the attitude of your company is toward supplying independent refineries with crude oil from the crude stocks in east Calgary, (a) when delivery is to be made into tank trucks and (b) when delivery is to be made into tank cars. Will you please also let me know the prices at which crude is available to each class of purchaser.

It would be very much appreciated if this information could be hurried because if I am to deal with the matter by evidence I desire to do so before

the close of the pipe line case.

Yours truly,

J. J. FRAWLEY,
Commission Counsel. "

Mr. Nolan was good enough to wire, because he had not got any reply, but as I understand it now, has a statement to make as to the attitude of his company.

MR. NOLAN: My instructions came verbally and they are to this effect. We are prepared to sell crude to independents, either tank car lots at the posted field price, plus transportation charge and plus handling charge. Then so far as the tank waggons are concerned, the situation is that we have not got proper or adequate facilities for tank waggons or tank truck loading at the East Calgary refinery, and whether or not it would be advantageous to make that investment depends upon the demand that there is for tank waggon or tank truck crude, and whether it be of sufficient quantity or whether it be constant or spasmodic. In other words, whether there would be sufficient demand to justify the investment to provide that additional service.

MR. FRAWLEY: Mr. Coultis is here.

MR. NOLAN: Yes, I asked him to come.

....

S. G. COULTIS, recalled,

Q BY MR. NOLAN: I understand, sir, that Mr. Coultis is required now to go into the question of the proposed regulations and the budget for the next year for the pipeline department. Before he does that, it occurred to me that, perhaps, it would assist in the point raised by Mr. Commissioner Lipsett if I just went back for one moment and transported a barrel of oil from the Valley and just see what happens to it. I do not want to prolong this. Mr. Coultis, a discussion arose this morning about how this crude - let us take crude - gets into our pipeline. Now, it is produced from the well and comes to the surface of the well of its own accord?

A Yes.

Q Then what happens to it?

A It is produced from the well through a separator into the producer's tanks at the well.

Q Yes?

A From that tank we pump the contents with our own pump through our gathering line, in some cases to a field gathering point, in the South end of the field known as No. 2 or No. 3 gathering station.

Q Yes, depending on the proximity to that particular station?

A Yes. Other wells are pumped directly from the well into the tank farm located at the head of the pipeline.

Q Yes?

A From that tank farm it is pumped through to Calgary into terminal tanks.

Q Who pumps it?

A The Royalite, in every instance.

Q MR. COMMISSIONER LIPSETT: Does your company, Mr. Coultis,

do the pumping from the well to the gathering lines?

A Yes, sir. We place a pump at each producing well, where it is an isolated well, except under circumstances where there is a group of separators, such as on the Sterling lease. Several of the Sterling wells produce through individual separators, which are grouped in the centre of that lease. We supply the pump and the gathering line to the producer's well or to his separators or tanks.

Q MR. NOLAN: What I understood this morning was that you provided the pump and that they did the pumping with their gas?

A That is so, sir, in some instacnes , but we are finding in many instances now there is not sufficient natural gas in the fuel line or other line , or at the producing wells, of sufficient pressure to operate the pump. The pumps we were referring to are steam pumps operating with natural gas in the cylinder, which, in many instances, requires considerable pressure. Many wells will not produce that pressure after coming through the separator. In those wells it has been necessary for us to purchase and place at those locations oil pumps driven by a gas engine operating the pump.

Q But in all cases do you provide the pumps?

A We provide the pumps in every case.

Q And what any well does is just to run the pump?

A It means that these steam pumps, we set the pump and all the operator does at the well is occasionally to pour a little oil on the bearings and open up a valve and let the gas circulate through the pump, or shut it off when the tank is pumped empty.

Q It does not take a special man or an extra man at the well to look after that?

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A No, not at all. But it is going to take, and it is now taking extra men of ours to operate the power units, because we would not care to risk a three thousand dollar to seven thousand dollar investment in an engine and pump and allow anyone who is not directly interested in it to operate it. We might find it is necessary to circulate our own men in the districts where these units are operating.

MR. NOLAN: That cleans up, Mr. Commissioner Lipsett, the point that you raised this morning?

MR. COMMISSIONER LIPSETT: Yes.

Q MR. NOLAN: Now, will you be good enough to take Exhibit "98" in this case, and discuss it with me, I think, perhaps, clause by clause. You have it in your hand. I do not know whether the Commissioners have their copies available. It is some time since this went in. It is document Exhibit No. "98" in the record of the Commission. Now, clause 1:

"By the term 'marketable oil' is meant any crude petroleum adapted for refining or fuel purposes, properly settled and containing not more than ½ of 1% of basic sediment, water or other impurities above a point six inches below the pipe line connection with Tenderer's tank."

The Tenderer being the producer?

A Yes, sir.

Q What is this point about not more than ½ of 1% of basic sediment, water or other impurities above a point six inches below the pipe line connection with Tenderer's tank? What does that mean?

A Well, we want oil as free from impurities and water as possible. And the point six inches below the pipe line connection is so that we are not drawing tank bottoms into the line.

Q What difference does it make to your operation whether there is a high percentage of basic sediment, water or other impurities?

A It will gradually fill up our tanks through the system and and cut the liners on the valves in the pumps, and in the Winter there is very great danger of freezing and blocking our entire system.

Q Why do you fix the point at ½ of 1%?

A We fix that point as the maximum which we would care to take or handle in a country with a climate that we have here.

Q 2. "Transporter agrees to accept oil of an A. P. I. gravity of less than 38° and a viscosity exceeding 100 at....." what is that?

A Zero degrees Fahrenheit.

Q Zero degrees Fahrenheit,"only when transporter in its sole judgment considers that it can do so safely, and Transporter shall have the right, whenever it deems it advisable, to mix discolored naphtha or other high A.P.I. gravity oil, with the Tenderer's oil to such an extent as it considers necessary to reduce the viscosity of Tenderer's oil to a point where it may be safely pumped through Transporter's gathering and trunk pipe lines."
Now, what is A.P.I. gravity, to begin with? What do those initials mean?

A That means gravity on the method of taking the gravity used by the petroleum industry. It is the Baume scale.

Q What does A. P. I. mean?

A That is the American Petroleum Institute recognized method for applying that test.

Q What is viscosity?

A Viscosity is the property of the fluid to flow. Fluidity.

Q What is the purpose of this clause then to reduce viscosity?

A The purpose of this clause is that we might be able to handle the oil that we can safely transport throughout the field and through the trunk lines to Calgary without stoppage or blocking of the lines.

Q And the viscosity is to exceed 100 at zero degrees Fahrenheit, according to this paragraph?

A If it exceeds 100 then we have the option.....

Q Of?

A Of refusing that if we consider it too dangerous to move at some season of the year.

(Page 3392 follows.)

Q Yes, and the same observation applies to oil which has a gravity of less than 38°?

A Yes.

Q (3)"The transporter will receive for transportation all such marketable oil tendered; provided it shall not be required to receive any oil for shipment from any person, firm, corporation or association of persons at intervals of less than 3 days except in lots of more than 475 barrels each. The Tenderer shall notify the Transporter 24 hours in advance of the time at which Tenderer wishes to tender Transporter a shipment of oil".

Now what is the purpose of putting in this provision of the 3 days at lots of 475 barrels each?

A It is necessary for our gaugers to make a great many miles per day, so in the instance of picking up oil from outlying wells it might require many trips if we did not limit these to a certain time of delivery and quantity, a minimum quantity in each delivery, in other words the 475 barrels is put in there meaning that we will take delivery from a 500 barrel tank and can take 475 barrels out of that tank.

Q Yes.

"(4) The Transporter will not accept for transportation any Tenderer's oil which contains more than ½ of 1% by volume of sediment, water and other impurities."

That really goes back to the first Clause, doesn't it Mr. Coultis?

A Yes.

Q And your explanation of Clause 1 applies to what I have just read?

A Exactly.

Q "All sediment, water and other impurities in exc··ss of one-eighth of 1% shall be allowed as a deduction from the total quantity of Tenderer's oil delivered to the Transporter for Transportation", now what does that mean?

A That means that any producer would be penalized if he had one-eighth of 1% of water or B.S. in the water.

Q And if it exceeds one-eighth of 1% then there is a deduction made from the total quantity delivered by the Tenderer?

A Yes.

Q "Transporter will not deliver oil to the Tenderer having sediment, water and other impurities in excess of 1/2 of 1% by volume. All sediment, water and other impurities in excess of 1/8th of 1% by volume shall be considered an addition to the quantity of Tenderer's oil which the Transporter shall deliver to the Tenderer". "In excess", what does that mean? "shall be considered an addition to the quantity of Tenderer's oil"?

A You would make a deduction for your percentage of water beyond 1/8th.

Q Yes.

A Therefore you would be carrying in excess of the measured oil that quantity of impurities.

Q Yes. "The Tenderer shall deliver all Tenderer's oil to the Transporter in as clean a condition and as free from sediment, water and other impurities as possible. The Tenderer will heat or cause to be heated the crude oil tend rd the Transporter for transportation at a temperature which is adequate to prevent congealing of the said oil in the lines on its way to the Transporter's tank farm in Turner Valley".

[illegible]

[illegible] is a deduct-

[illegible] quantity [illegible] received by the Transporter

[illegible]

"Transporter will not deliver oil to the Receiver having sediment, water or other impurities in excess of 1/2 of 1% by volume. All sediment, water and other impurities in excess of 1/2 of 1%, by volume, shall be considered as in addition to the quantity of [illegible] of which the Transporter shall deliver to the Receiver". "In excess", that is as [illegible] in addition to the quantity [illegible] of 1%?

[illegible] 1/2 [illegible]

Yes.

Therefore you [illegible] be carrying in excess of the measured oil [illegible] quantity of impurities.

Yes. "The Transporter [illegible]

[illegible]

Is there any danger of this oil congealing in this country, Mr. Coultis?

A Very much, sir, in the winter. It carries a high content of wax.

Q Of wax?

A Yes.

Q And if it congeals, what is the affect of that?

A It plugs the line.

Q "(5) Transporter will make a test or tests for determing the amount of sediment, water and other impurities in the oil tendered for transportation, from an average sample from each tank of oil tendered for transportation, by the use of a centrifuge machine or by the use of any other appliance agreed upon by the Transporter and the Tenderer. The same method of ascertaining the amount of sediment, water and other impurities shall be used when the Transporter makes delivery of the Tenderer's oil". What is a centrifuge machine?

A A machine for centrifuging a sample of oil or swinging it at high speed, which deposits any impurities heavier than the oil, water or other impurities, in the bottom of the receptacle where it can be measured.

Q In other words it is a method of establishing the amount of sediment, water or other impurities?

A Yes.

Q A recognized method?

A Yes.

Q "(6) The Transporter will not be held liable for contamination of the different products transported in the pipe lines by reason of pumping one class of product immediately after another product. Transporter may mix Tenderer's oil

"with any other similar oil originating in Turner Valley and having a gravity between 38° and 64.9° A.P.I."
That arises out of one of these products pushing another one out of the line?

A Not altogether, sir. Your oil in Turner Valley varies through a wide range from around 39 at the present time to 64.9.

Q Yes?

A And in order to bring that through the lines it is necessary to mix one well's products with another.

Q Otherwise you would have to have a separate line for each well?

A In a great many cases, yes.

Q "(7) The oil shall be measured before acceptance by the Transporter for transportation and before acceptance by the Tenderer after transportation both in the presence of a representative of each party. The Tenderer will furnish at each well necessary waste gas for pumping the Tenderer's oil into the Transporter's pipe line at no charge to the Transporter, provided the Tenderer owns or controls the gas production at such well or wells for such purpose". That is the point which you have just been discussing with Mr. Commissioner Lipsett?

A Yes.

Q "(8) The Transporter by its representative shall have the right to go upon the premises where Tenderer's oil is produced or stored and have access to any and all tanks or storage receptacles for the purpose of making examinations, inspections or tests to facilitate the fulfilment of the rules herein set forth". Well that is self-explanatory?

A Yes.

Q "(9) When quantities of oil are measured in accordance with Rule 7".

That is either by the Transporter for transportation before acceptance, or before acceptance by the Tenderer after transportation,

" Said quantities shall be computed from correctly compiled tank tables showing 100% of the full capacity of the tanks which may be used from time to time. Corrections shall be made for temperature, adding or deducting at the rate of 1% for each 25 degrees in temperature below or above 60°F."

Now what are the tank tables showing the 100% of the full capacity of the tanks?

A Tank tables showing 100% capacity shows the full capacity of that tank and each tank is strapped by, by our engineers, in conjunction with engineers of different companies if they care to have them there.

Q I didn't catch that, is "strapped"?

A The term "strapped" is used in the business, it means measure, that is the capacity of the tank empty, sir, but there may be a great deal of "dead-wood" in that tank so every tank may have a different capacity. "Dead-wood" means heating coils in the tank or inside pipes such as swing suction pipes or any coils put in the tank for heating purposes or any other purpose. The true capacity of that tank is determined and the 100% volume is worked out for this reason that we prefer to know and have the producer know that that tank has an accurate capacity of 100%. The reason for that also is that in many companies where there is a variation of one or two per cent as in our case, they will "strap" the tanks which takes that into consideration,

but it is simply to eliminate figuring that 2% out and I believe that we are much better to work on the true capacity of that tank and figure it, and then there is no confusing of a barrel of oil in any tank.

Q MAJOR LIPSETT: It means that the outside capacity measured by the diameter in length, might be so much, but there would be a certain amount less than that and for---

A "Dead-wood".

Q For what you call "dead-wood" inside?

A Yes.

Q In the way that this provides for you getting the actual net capacity of the tank?

A The tables from those measurements are made so that every inch of foot represents exactly so many barrels of oil. In every instance the table would be made, our tables are all of the accurate capacity of that tank and we figure any deductions which may come by reading---

Q In the percentage you have actual figures?

A Yes, we have actual figures.

Q MR. NOLAN: Then the basis is 1% for every 25° in temperature?

A Yes.

Q Is that a fair percentage to take?

A Oh that is the recognized method adapted by practically all the pipeline companies in the United States that I have looked up in the Inter-State Commerce Commission and is recognized by the Inter-State Commerce Commission.

Q As being a proper deduction?

A Yes.

Q MR. NOLAN: "(10) It is further agreed that the Transporter will deduct 1% by volume of all oil which is delivered to it

"for transportation by the Tenderer and will be responsible,- subject to the provisions of Rules 6 and 9 hereof, for the delivery to the Tenderer of the quantity of oil equivalent to the quantity accepted by it for transportation less such 1% deduction".

Now that is the pipeline loss deduction that we have discussed here?

A That is the deduction made to cover pipeline losses, yes.

"(11)---

MAJOR LIPSETT: Mr. Nolan, before you pass from that Mr. Coultis, I understand the idea about this pipeline loss, it is that the pipeline companies should be fully protected but on the other hand it should not make a profit in that pipeline loss, in other words that it should be as near as it can be an accurate measure of the loss, is that it?

A I believe that that is the intention, sir, but it is rather difficult, it is a rather difficult thing to answer accurately what would be the correct percentage on any system. This system is a relatively new system, particularly the gathering system of the crude oil. Our pumps are new, our tanks are either new or newly built and naturally at the present time they are working in the very best condition we ever hope to have them working in.

Q In fact I think they are a great credit to you, Mr. Coultis, I think I can say that?

A Probably too good.

Q The reason I interrupted you, Mr. Nolan, is this, that in Mr. Plotkins' brief there is a suggestion that that pipeline percentage loss should be adjusted periodically so as to correspond either to the net gain or the net loss of the company,

I do not know if you would like to express any opinion upon that?

A Well we have been very fortunate due to the good operations of the men working for me and we have not had much trouble in the way of losses and we have had no fires. We have had one break that ran over 2000 barrels in the one break.

Q MR. NOLAN: When?

THE CHAIRMAN: That is leakage?

A A broken line.

Q MR. NOLAN: When?

A Early this Spring.

Q It was in the Spring of 1938?

A Yes.

Q It was in May?

A Yes.

Q MAJOR LIPSETT: Well would a periodical revision of that either up or down, would that be helpful in taking care of a special loss, if one unfortunately did occur?

A Well it would be a question how, I do not know just how often you would wish to revise that.

Q Let me just see if I can find what Mr. Plotkins suggests here, it is on page 7 of the second part, Mr. Nolan.

MR. NOLAN: Excuse me a moment until I find it, yes.

Q MAJOR LIPSETT: Just the last couple of lines of the centre paragraph on that page, he says "with respect to deductions for pipeline losses our suggestion would be to have the overages or shortages made up periodically prorata to the shippers", it seems to me that possibly your point about a very heavy loss might be taken care of, and on the

other hand you might get nearer to accuracy if this pipeline figure was adjusted p orata up or down every six months or three months or whatever would be the period.

A It would be rather difficult, sir, because if you take your losses, your leakage, breaks and fires into consider ation you would still have your evaporation to consider, which is much heavier, should be much heavier in the warmer months of the year than in the winter months and I rather think that we would have to take them over a reasonable period to arrive at anything and the operators, sir, - I do not mind saying that I would like to see the evaporation or the loss rate set just a little bit on my side, rather than having me going to the producer and telling him that "I lost 2000 barrels by leakage and in a fire 10,000 and would he please give me back some of the money", I would like to have a little velvet there to take care of a bad mess.

Q I agree you should and I was just thinking whether the principle suggested here, that the pipeline rate, and as has been suggested by the Price, Waterhouse too, that the pipeline rate should cover the actual charges and that this pipeline loss should be treated separately?

A Well I think, sir, that already has been adjusted. It has been adjusted from experience and operations, and has been adjusted donwards from 2 to 1.

Q Yes.

A And if given a reasonable period I think sir, that could be worked.

Q Apparently that 1% on the present through-put, Mr. Coultis, gives you shall I say a substantial margin, whether it is too much or too little I do not know but a susbtantial margin.

A Well since that 1% was put in, sir, we have had no breaks of any kind and I do not know what condition we will meet throughout this winter on these lines from heaving and this breakage.

Q I am quite willing to say that should be provided for?

A I would like to see it spread over a great enough period so that we could hit a safe average before I would want to accept that.

Q Perhaps you would not like to express an opinion now, perhaps you have not considered it or would not like to express any opinion upon this question of a periodical revision?

A Well---

Q Or what the period should be, if there was such a periodical revision?

A I would not like to put it sir, as a minimum less than 6 months?

Q Perhaps you would not approve of it at all, Mr. Coultis?

A Well I am entirely open, on that, but I would like to see the operating conditions before I would commit myself on it because there is a changing condition there in Turner Valley. In the days past we were handling very light products. Now we have an oil that has a wide variation. As your oil becomes heavier your evaporation is decreased but your breakages will not necessarily decrease, they will increase.

Q At the present time, if these regulations were put in as they are with this 1% say, it seems to me that the only way of altering that would be by an application to the Utility Commissioners to fix a new rate. On the other hand if there was some fairer method which would take care either of a large profit of this kind on the one hand or a large loss through fire on the other, that it might be well to have it

considered at all events and it may be to the advantage of everybody to have so... method of adjusting that in the percentage over three months or six months or some other period.

A Well I believe that the loss rate was adjusted voluntarily when it was shown that it was piling up an extra. I would not like to see that adjusted in less than a six months' period and preferably a year if possible.

Q Would you think, or have you considered it, would you think that with the possibility of an adjustment over 6 months to a year, that that would be an advantageous method?

A I think it would be a very fair method, sir.

Q It might eliminate the necessity for another inquiry before the Utility Commissioner about a subsidiary matter and yet a very important matter?

A Yes.

MAJOR LIPSETT: I am sorry to have interrupted Mr. Nolan.

MR. NOLAN: No, sir.

Q MR. NOLAN: You have made an examination into pipeline loss rates in other pipeline companies?

A Yes.

Q What is the rate that is usually allowed?

A From 1 to 3% sir.

Q Do you know of any instances when it is less than 1%?

A No, I do not.

Q "(11) Transporter, at any time after receipt of a shipment of oil"---

THE CHAIRMAN: What was that you said, Mr. Nolan?

MR. NOLAN: I was asking Mr. Coultis if in his examination of pipeline tariff and regulations he had come

- [illegible] -

[illegible]

[illegible] extra. [illegible]

[illegible]

[illegible] think, or have you ever [illegible] it, [illegible] think

that with the possibility of [illegible] year [illegible]

[illegible] that would be [illegible] investigating [illegible]

[illegible] by [illegible]

[illegible] necessity [illegible] inquiry before

[illegible] matter and you

[illegible] important [illegible]

[illegible]

[illegible] questions [illegible]

[illegible]

across any situation where the pipeline loss rate was less than 1% and he said "no", Mr. Chairman, the rate varies from 1 to 3%.

THE CHAIRMAN: The loss rate.

WITNESS: Yes, the loss rate.

MR. NOLAN: That has already been put in.

THE CHAIRMAN: The 1 to 3%. The oil is given you and it goes through your line and that is lost in transportation.

MR. NOLAN: The rate of deduction for loss varies from 1 to 3%.

WITNESS: In any tariffs that I have looked through, sir.

Q THE CHAIRMAN: 1 to 3%, the rate of deduction for loss?

A Yes.

Q Now when you were looking at that, did you look to see what the experiences of those companies were as to whether or not the deduction was adequate or too much?

A Those figures were not available, sir, in any of these tariff regulations. They were simply regulations. They did not give the result.

Q It would be necessary to know, standing alone it proves nothing, they may be all accumulating a lot of oil or suffering a great loss?

MR. NOLAN: Yes, a major disaster.

THE CHAIRMAN: Yes, quite and unless you have the further information it is not of great value.

MR. NOLAN: I have a note here that that information is not available in the Tariff and Regulations which have been the subject of your examination.

A No.

Q Because that figure would not be given there, would it?

A No, it would not. It is an agreed figure approved by some governing body as being applicable to that particular line or operation.

Q THE CHAIRMAN: Are you sure of that, are you sure a Government body intervened?

MAJOR LIPSETT: Or approved?

WITNESS: Well I was referring to the Insterstate Commerce Commission that passes on practically all of these regulations or rules which I have read.

Q THE CHAIRMAN: Yes, but you got this out of the Inter-State Commerce list, I suppose?

A What I am referring to now, sir, yes, the different rate, this was not taken out---

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Q THE CHAIRMAN: We are told with respect to the rate for transportation, for example, what appears in those lists have not necessarily been ever passed upon by the Inter-State Commerce Commission, they are listed there because they are rates in force to which objection has not been taken?

A Yes.

Q Now, does the same apply to this?

A Yes, it would. I probably should not have applied that term.

Q MR. NOLAN: What you are saying, Mr. Coultis, we find it in the books and we, perhaps, wrongfully assumed it had the stamp of approval of the Inter-State Commerce Commission because it was in their book?

A Yes.

Q But the evidence in this case is that, perhaps, that is not so, that it is simply in the books and stands in the book at the figure at which it is in the book because no objection to it has been taken by anybody?

A Yes.

Q THE CHAIRMAN: And that may equally apply to your rate of deduction?

A Absolutely.

Q MR. NOLAN: Are there any regulations in the book, which you have looked at, obtaining to the State of Montana?

A I have the State of Montana regulations. I am not sure whether I have it here.

Q Are they fixed by a body set up by that State?

A No, I do not believe so.

Q What fixes them, the State itself?

A No, I believe the pipeline published their rates and they were allowed to stand.

Q Well, we will look at that and see what the answer is.

"11. Transporter, at any time after receipt of a shipment of oil, may tender and in any event not later than three weeks from date of such receipt, upon 24 hours notice to the Tenderer, shall tender, oil for delivery from its common stock at Calgary terminal at the rate of not exceeding 6,000 barrels per day of 24 hours."

Now, what situation does that propose to take care of, this is "The transporter may tender"?

A The tenderer delivers a shipment of oil or asks that a shipment of oil be moved from the field to the terminal's tankage.

Q Yes?

A After receiving it in that terminal tankage we wish to be protected for a short space of time for making that delivery, which I assume would only be exercised in the case of accident or fire. You might tender oil for delivery to-day and ask that it be delivered to you the first thing to-morrow morning.

Q Yes?

A Which cannot be done in most instances.

Q Yes, so that there has been a limit put upon the amount which he may require to be delivered out of the storage, that is what it means?

A Yes.

Q And that is set out "6,000 barrels per day of 24 hours."?

A Yes, that is to prevent probably many customers all ordering great quantities of oil all in one day.

Q Like a run on the Bank?

A Yes.

Q "Should the Tenderer refuse or be unable to take delivery, Transporter agrees to store the oil in its storage tanks free of charge for seven days after such notice. Thereafter, if tenderer is still unwilling or unable to accept delivery of oil from Transporter's terminal tankage, Transporter will charge Tenderer demurrage as follows:-

On all oil tendered for delivery and remaining undelivered, at the rate for the first ten days, beyond the free period of seven days, of 1/10 of 1 cent per barrel; during the next ten days at the rate of 2/10 of 1 cent per barrel;and thereafter at the rate of 3/10 of 1 cent per barrel for each day of 24 hours or fractional part thereof." Where do you obtain guidance as to this storage rate of 1/10 of 1 cent, increasing in tenths to 3/10 of 1 cent?

A In the first place we give a full week of seven days.

Q That is right.

A Free.

Q Yes?

A And practically all pipeline companies from the terminal tankage have a penalty imposed to cover the storage and handling and risk of handling the oil. This is deducted largely from different rates set up by different pipeline companies to cover this similar work.

Q I think that is clear.

(12) " The Tenderer will have its oil stored in tanks on the respective properties from which the Tenderer's oil is to be taken and will deliver same at said tanks to the Transporter and the Transporter will accept and transport said oil up to 'Government Allowable.'" That is to take care of the conservation situation?

A Yes.

Q "If the capacity of the Transporter's pipe line system

from time to time is less than the combined capacity required by all the Tenderers tendering the Transporter oil for transportation, the Transporter shall have the right to accept on a pro rata basis such tenders of oil as all the Tenderer's may offer for transportation."
That means that if the oil tendered to you exceeds the capacity of all these lines they are to be allowed to transport on a pro rata basis?

A Yes.

Q "The tenderer shall accept the above proration of tenders of oil for transportation whether required by the Transporter or by any authoritative Governmental agency."
(13) The Transporter shall not be liable for any claim made more than 30 days after delivery of oil to the Tenderer.
Why do you limit that to 30 days?

A Because if any complaint should be registered with us within 30 days, so that we can take action on it, or know what the customer is complaining of.

Q To examine into the ground of the complaint?

A Yes.

Q And if it was left for a long time it might be difficult to ascertain what the facts were at the time?

A It probably would be.

Q (14) Oil will be accepted for transportation only when free from all liens and charges."
Well, that is self-explanatory?

A Yes.

Q (15) The Transporter shall have a lien on all oil received from the Tenderer to cover all charges payable by the Tenderer to the Transporter hereunder and may withhold

delivery of said oil until said charges are paid. If such charges shall remain unpaid for more than thirty days after Transporter has rendered his invoice to the Tenderer for same, the Transporter after 5 days notice to the Tenderer of any such sale shall sell said oil at its option either at a public auction at the office of the Transporter on any day not a legal holiday and not less than forty-eight hours after publication of notice in a daily newspaper of general circulation published in Calgary, or by private sale at a price equal to the price posted by Imperial Oil Limited, for crude oil in the Turner Valley for oil of like gravity plus transportation charges to Tenderer's Calgary storage. The notice of sale shall give the time and place of sale and the quantity of oil to be sold. From the proceeds of the sale the Transporter may pay itself all charges lawfully accruing and all expenses of said sale and the balance will be paid to the Tenderer." Is that a usual clause?

A Yes.

(Page 3410 follows.)

Q "16. Transporter shall not be liable for failure to perform hereunder if prevented by fire, strikes, accidents, Acts of God, or any other cause beyond its control." Now the purpose of bringing the regulations to the attention of this Commission, Sir, is because perhaps there has not been put before you anything of an informative nature of this kind. We are not saying to the Commission that is what this regulation should be, but we have attempted to draft from existing regulations what we think are appropriate and proper regulations to be applied if the rate is being fixed. I think I should pause there because there are some questions that Mr. Frawley would like to ask before going on to the next matter of the budget.

THE CHAIRMAN: Before you start, Mr. Frawley, have copies of this been given to Mr. Harvie and to Mr. Plotkins?

MR. FRAWLEY: A copy was given to Mr. Plotkins just yesterday. Did Mr. Harvie get one?

MR.HARVIE: I have received a copy, Mr. Chairman. I have submitted it in the East and I expect instructions either today or tomorrow with respect to it.

THE CHAIRMAN: Do you want this criss-cross examination to proceed until you have had a chance....

MR. HARVIE: I think probably there is no need to postpone it. It may be that I will want to ask some questions in the morning.

THE CHAIRMAN: Well you will have to make up your mind as to whether you want to cross-examine

him. I do not know that we are concerned with regulations. However, we are glad to have them here.

MR.NOLAN: My difficulty is just what is going to happen to my future rate. I know that you will report on the rate and whether we go then to the Board of Public Utilities is something that I now do not know. I suppose this is a matter which should very properly come before a Board of that character fixing a rate, and as I have said heretofore this matter may never get before the Board of Public Utilities' Commissioners, but it is informative in any event.

THE CHAIRMAN: Oh yes. I just want to be clear that those who are presently using the line, Mr. Plotkins and Mr. Harvie's client, be thoroughly familiar with it. If it is put in at all it is worth while their examining it and cross-examining on it as they see fit, and giving any evidence they may see fit.

MR.HARVIE: In that connection I think it is essential there should be such regulations with any rate. I think it is the usual practice and a necessary practice. The detail of these regulations has to be considered in connection with the class of oil that is being transported, and everything else that goes into this particular picture. If your recommendation is one as to the figure of a rate alone and we can speak later to the regulations on which that rate will be applicable is one situation. On the other hand if you are dealing with the whole situation as to the rate and regulations in connection with that rate we will have necessarily to deal with the matter immediately.

THE CHAIRMAN: It is not my memory that there is anything in our Commission that requires us to deal with regulations.

MR.HARVIE: This is part of the rate. It must be.

THE CHAIRMAN: Perhaps so. We will have to use our own judgment about that. In the meantime we will receive the evidence. All I want to know is that everybody - in case we should be of the opinion we would ever be concerned with it - it is well that everyone concerned should have an opportunity of making such examination as they may see fit of this witness or giving any evidence of their own. I am not promising we will make any regulations, and I am not saying that we will not. But we will do exactly as we think fit and exactly what we think is our duty to do when the time comes to do it. In the meantime we will receive all the evidence you have to offer with respect to it. Major Lipsett suggests the Conservation Board might be concerned also with seeing a copy of these regulations.

MR. FRAWLEY: Yes. My view at the moment is I see nothing in the Commission - but perhaps it is not necessary for me to say at the moment - there is nothing in the Order-in-Council or Commission that requires you to submit regulations. It may be that you think it is the proper thing for you to do for the guidance of the Lieutenant-Governor-in-Council.

THE CHAIRMAN: It is conceivable, so we are receiving it.

Q MR. FRAWLEY: Am I to understand now that this proposal, this proposed pipeline tariff - that is what it really is, it is a tariff?

A Yes.

Q Because it contains the rates as well as the regulations under which the rate shall be payable?

A Yes.

Q Or subject to which the rate is payable?

A Yes.

Q Am I to understand it will take the place of any special contract - we only know of one at the moment, the one of the 18th of September, 1936, with the British American Company?

A I do not know that it would take the place of all contracts. It would probably eliminate the necessity of making a lot of contracts that otherwise would be unnecessary, operating under these regulations.

THE CHAIRMAN: There are only two that you could possibly have at the moment, or are there three? The Anglo-Canadian I guess carried some through, whether under contract or not it does not appear.

Q MR. FRAWLEY: At the moment you could have three, perhaps? One to the Imperial, one for the British American and one for the Lion?

A We have two contracts that I know of at present.

Q Which two are they?

A The Imperial and the B.A.

Q Is there a contract with the Imperial?

A Well I cannot swear to that sir.

Q That question was asked some other witness, Mr. Coultis, and I think we were told there was not anything in writing.

A I have no copy if there is.

Q You have only the one contract, the one with the British American?

A Yes.

Q THE CHAIRMAN: Wasn't that something you were to look up?

MR. NOLAN: No. I think when that was discussed it was settled there was no written agreement between these two companies.

Q MR. FRAWLEY: What I suggest is, if something of the sort of Exhibit "98" is approved by this Commission, or the Public Utilities' Board, that it will take the place of any special contract of any kind with any company?

A Well it gives the pipe line division some assurance of the type of business and the method that they are carrying their business on.

Q Well? That is quite right, Mr. Coultis, but it really becomes a contract with the people who offer you oil for delivery. If those are the conditions imposed, and if they accept the conditions, which they would do by giving you oil, and pay you your rates, then you have a contract, a series of contracts of this sort?

A Yes.

THE CHAIRMAN: I suppose the witness might very reasonably say that these could be conditions attached to a contract of a much wider character, as in

an insurance policy for example, where there are statutory conditions, but there is a contractual power over and above that.

Q MR. FRAWLEY: Shall I make myself clear, Many of the things covered by these special contracts with the British American are now included in your proposal, Exhibit "98"?

A At least similar ones, yes sir.

Q Some of them almost identical?

A Yes.

Q So that today would you be satisfied to carry British American Oil, with sufficient protection under Exhibit "98" or something of that sort, and scrap the contract, Exhibit - I do not know what it is now, which is presently in existence with the British American Oil?

A Well I would not want to go so far as to say scrap their contract or anyone's contract. But it would not be necessary to write out a contract at such great length. You could refer to these rules and regulations under which this oil would be moved.

Q Are you not prepared to offer the facilities of your pipe line and impose the same conditions upon all people offering oil?

A The same conditions to all people, yes sir.

Q And all companies?

A Yes sir.

Q The British American Oil Company as far as you are concerned gets and is going to get no privileges over and above any other company with oil to put

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

through your pipe line?

A No sir.

Q So that what you are suggesting is that this should be considered a standard regulation?

A Yes.

Q Or call it a contract?

A Covering all of them.

Q There would not be any necessity of any special contract with special companies?

A Well some tenderer might wish other special concessions that might come up later, that I am not aware of now, where it might call for a special contract.

Q You are virtually now holding yourself, your company out, or your Division out as a common carrier by offering this proposal are you not?

MR. NOLAN: No, we are not, sir, if I may answer that question for the witness.

THE CHAIRMAN: I do not suppose this witness can say. He has not said he is an executive officer.

MR. FRAWLEY: No. Of course, I am at a loss now, frankly, in view of my friend's answer, I do not understand what the special concessions would be unless they were approved by the Public Utilities Board.

MR. NOLAN: If at any time it is found proper to declare this pipe line to be a common carrier, in our submission to this Commission, the tariff applicable to that which is declared a common carrier shall consist of two things, a rate plus regulations. We respectfully offer as information an analysis of the

regulations which we think might then be applicable.

MR. FRAWLEY: So that this Exhibit "98" is not to come into existance unless and until the Pipe Line Division is declared to be a common carrier? Is that so?

MR. NOLAN: That is so.

MR. FRAWLEY: Then after you have become a common carrier and the regulations, Exhibit "98"....

THE CHAIRMAN: If and when you do.

Q MR. FRAWLEY: Yes, if and when you have become a common carrier and Exhibit "98", if and when Exhibit "98", or something similar to it becomes th4 standard set of regulations, then I put it to you, Mr. Coultis, will there be any need for any special concessions over and above the conditions in Exhibit "98" which would he desirable to give to any company transporting oil through your pipe line.

THE CHAIRMAN: Which you know of? You are just a witness. You are not binding your company?

A Oh no. Not unless the tenderer desires some special privilege of handling his oil, possibly in the field or at this end of the line, in some particular method.

Q MR. FRAWLEY: You would like to hold yourself free to give him that concession?

A I would not want to tie myself down to meet every condition with this set of regulations.

THE CHAIRMAN: Your superior officers might think of a lot more before that time came?

A Yes.

Q MR. FRAWLEY: Now just to run over

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these, I have a very small number of suggestions to make to you. Will you look at Number 4 where you say you will not accept for transportation any tenderer's oil which contains more than one-half of 1% by volume of sediment, water and other impurities. All sediment, water and other impurities in excess of 1/8 of 1% shall be allowed as a deduction. It is suggested to me 1/5 of 1% might be substituted there. What do you think about that?

A No. I prefer to have one-half as a maximum and 1/8 as the allowable. I think that governs the situation in Turner Valley amply.

Q The complete suggestion that has been made to me is that the low should be 1/5 of 1% and the high .5%. That is a half of 1%. Now Number 6. Clause 6. "The transporter will not be held liable for contamination of the different products transported in the pipe lines by reason of pumping one class of product immediately after another product. Transporter may mix tenderer's oil with any other similar oil originating in Turner Valley and having a gravity between 38° and 64.9° A.P.I.

Q It is suggested to me it does not protect crude naphtha moving. Do you think it does?

A It protects it to the extent that otherwise it would be necessary to build separate crude naphtha lines to the source of the crude naphtha, which would be prohibitive.

Q And following that this is the only reasonable suggestion you can make?

A Yes.

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Q THE CHAIRMAN: What is the meaning of the line on the top of Page 2?

MR. FRAWLEY: "The tenderer shall deliver all tenderer's oil to the transporter in as clean a condition and as free from sediment, water and other impurities as possible."

MR. COMMISSIONER LIPSETT: Does that mean all the oil tendered or all his oil?

Q MR. FRAWLEY: What do you mean by that, Mr. Coultis? Do you mean all the oil he has to tender must be in as clean a condition and as free from sediment?

A That means, sir, that we would ask the producer to take all reasonable precaution to deliver into our lines his oil in as clean a condition as possible. For instance, many of the wells are acidized, and at that time they bring out a great deal of calcium chloride. The spent acid. Calcium chloride is left because of the effect of the hydrochloric acid on the lime. We would ask him to drain or blow that out and not deliver it into our pipe lines. It would also mean in the event of a new well coming in, which would be bringing a great deal of mud and water along with the oil and emulsion, that if he put that mixture in his tanks he would at least allow the tank to set a sufficient length of time, after being warmed to settle out the water and mud from other units.

Q MR. COMMISSIONER LIPSETT: As you interpret it this is a reasonable protection for the pipe line?

A Yes.

Q I was wondering whether it was open to the other inter-

pretation that he is bound to tender all the oil he had.

Q MR. FRAWLEY: And it is under some other part of your company that your company as a crude oil buyer obtains its supplies?

A Absolutely.

Q You are not concerned with that?

A We are not concerned only with oil that we are asked to move.

Q Mr. Coultis I do not think that there is anything else at all that I wish to ask. It is suggested in Clause 11 in the second paragraph of Clause 11. On all oil tendered for delivery and remaining undelivered at the rate for the first 10 days, beyond the free period of 7 days, of 1/10 of 1 cent per barrel; during the next 10 days at the rate of 2/10 of 1 cent per barrel, and thereafter at the rate of 3/10 of 1 cent per barrel for each day of 24 hours or fractional part thereof. It is suggested to me that is high, but not so bad.

A I do not think it is so bad.

MR. NOLAN: High, but not too high.

MR. FRAWLEY: That is all.

Q MR. HARVIE: Mr. Coultis, Mr. Frawley has just brought up the question as to whether under Clause 6 of this contract you are allowed to mix oil of gravities between 38^{o} and 64.9^{o} A.P.I., and your explanation was satisfactory, but that does not include the other product that is being brought in from the field through one of your lines, absorption gasoline?

A Yes.

[illegible]

Q And that there is no provision made in these regulations in connection with the transportation of that product.

A Well that product at the present time is only being handled by the two companies and you are asking that your own product from your own plant be brought in subject to the conditions that we can bring it in under.

Q That will be the occasion for a special agreement?

A Yes.

Q In other words that would be a fair and proper case for a special agreement or an extension of these regulations?

A Yes. This only applies to crude oil, and the products mixed with it, which would be discoloured products.

Q In connection with the pipe line loss under clause 10, Mr. Frawley I think intimated at one time rather than a flat charge of 1 or 2% that possibly you would allow a reserve that would be sufficient to look after any major catastrophe that might be anticipated - or it might have been one of the Commissioners - and then once that reserve was set up and found sufficient, that there might be a distribution of the surplus every three, six or twelve months. Would that be practical?

A Well it might be if the reserve reached the point where we felt we were amply safeguarded.

Q What would you anticipate might be the size of a major loss?

A That is rather a difficult thing to estimate. A 6 inch line contains about 182 barrels per mile, and breaking over those hills you could drain 10 to 15 miles of line in a break before you get to it and stop it possibly. Would your question also include damages that might

arise from that break?

Q I would think it should include everything, yes. That is anything that is not covered possibly by some form of other insurance.

A I would be hesitant to guess on that damage, what it might amount to.

Q It would be a difficult thing would it not?

A Yes.

Q There is a possibility that something like that might be worked out and it might be feasible?

A It is possible, yes,

Q MR. FRALEY: I intended to ask you something about that and I am sorry I forgot it. As Mr. Commissioner Lipsett put to you a short time ago, it is only intended as a protection or safeguard against loss of the product in transportation. Loss of product is it not?

A Loss of product, yes sir, through many causes, I believe.

Q Yes, through a break in the line and a whole lot of causes.. Evaporation, leakage and so on?

A Yes sir.

Q Now that being so, as I have always understood it is not the desire or it was not the intention that there should be any big profit piled up out of this deduction?

A I do not believe so,

Q Well don't you think it would be a quite feasible thing, having regard to your past experience - and I will call your attention to the fact in 1937 your actual experience was .98% and in 1938, the first nine months, .525% - having that in mind don't you think your company could arrive at what a proper reserve would be to keep for these

contingencies. Make it just as large as was thought reasonable but to distribute the balance from time to time, even every twelve months, as is suggested. Is there anything fundamentally wrong with that?

A Mr. Frawley, from an operating standpoint I do not think it is fair to consider the operations with reference to losses, or operations of the year 1938 and the year 1937, or anything previous to that date, because you are operating under different conditions.

Q What do you mean by that?

A Because today you are covering a great area with a gathering system, taking products of many tanks and handling it as much as three times through different sets of tanks, which are all subject to leakage and loss. Whereas in the older days you were taking your products largely from one point.

Q Yes. Then perhaps your experience, perhaps this low actual loss or low percentage of loss in 1937 and 1938 may not be a very complete guide to what your figure for 1939 or 1940 should be. But giving due regard to all of the factors which occur to your mind, it should be possible to arrive at an amount more than which your Company does not desire, but less than which your Company does not desire to go below.

A I think you are quite right if you go over a long enough period. We have just completed 1938, and that is really our first year of handling crude on a large scale, and I hesitate to state what our losses may be.

Q I do not think it could be proceeded with usefully in any more detail. You see nothing wrong with the principle

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of the thing?

A I think that possibly it could be worked out providing we got sufficient information from actual operating experience to work it out on.

Q And to build up a reserve intelligently?

A Yes.

Q MR. COMMISSIONER LIPSETT: What I was putting to him was not quite so much building up a fund and just distributing it. What I was asking his opinion on was a variable percentage of deduction. That is to say it is 1% at the moment, and might go up to 2% to cover a substantial loss or it might go down to half of 1%, if it was proven too much, and that that could be adjusted without any further hearing in 3 months or 6 months or whatever was a reasonable period based on actual experience.

MR. FRAWLEY: Well that seems a very good suggestion.

MR. COMMISSIONER LIPSETT: It was only a suggestion for consideration.

MR. FRAWLEY: No one wants to make any money out of it and I would like to help the Company bring about that condition.

Q MR.NOLAN There was one point came up in the discussion with the Chairman, the question of damage claims. I do not think that has been mentioned to any extent. What you are referring to is if there is a break in the line on a farmer's land, amongst his crop, or on the roadway or in a stream there might conceivably be damage claims against the

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Pipe Line Department for damage caused by the flow of this product over the land or into the stream or over the road?

A Yes.

Q MR. FRAWLEY: But that is purely operating costs, which comes out of your rates?

A That is entirely attributable to the break in that line.

Q Oh yes.

A And the loss of the oil.

Q If you have a new coupling to put in you put it in and that goes into your operating costs?

A It might also cost a wheat field. But you cannot estimate what it would cost breaking on the highway.

Q You have got something in that. I see legal and audit fees. You have to pay a lawyer sometimes if you damage a farmer's field. That is one of your indirect costs which we are having trouble allocating?

A I am not an accountant.

THE CHAIRMAN: And if I were you I would not be led up that alley either.

MR. FRAWLEY: Do not regret it, Mr. Coultis.

THE CHAIRMAN: Mr. Plotkins, any questions of this witness?

MR. PLOTKINS: Yes, I have a few questions.

THE CHAIRMAN: Have you had an opportunity to study that?

A I have, briefly, yes.

THE CHAIRMAN: Then we will proceed with that in the morning.

(At this stage the Hearing was adjourned until 10.30 A.M.